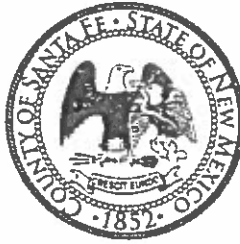


Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Date: July 16, 2015

To: Santa Fe Board of County Commissioners

From: Robert Griego, Planning Manager *RG*
Rosemary Bailey, Housing Specialist *RB*

Via: Penny Ellis-Green, Growth Management Director

Item: First Amendment to the Amended and Restated Santa Fe County Affordable Housing Agreement for La Entrada Phase I

Issue:

The Board of County Commissioners approved an Amended and Restated Santa Fe County Affordable Housing Agreement for La Entrada Phase 1 between Univest-Rancho Viejo, LLC a New Mexico limited liability corporation and Santa Fe County on December 12, 2012. The approval was based on the applicant's original plat identifying a total of 454 units at La Entrada which indicated in Section 4 that 68 Affordable Units must be provided.

On June 9th, 2015, the Board approved a plat amendment for La Entrada which reduced the total number of lots. The plat amendment increased the lot sizes at La Entrada and reduced the total number of dwelling units from 454 to 404. Therefore, the parties desire to amend the Agreement to indicate that the required number of units is reduced from 68 units to 61 units. The proposed agreement is attached as Exhibit 1. Staff has met with the applicant and the Attorney's Office to craft the agreement, and is satisfied that this is a workable agreement. The main provisions of the Amendment are summarized below.

- La Entrada's affordable housing obligation is reduced from (68) units to (61) units.
- After taking into account the twenty-one Affordable Units provided, the applicant will be required to build and sell (40) additional units.
- The additional (40) Affordable Units shall be divided among the four Income Ranges as follows: Ten (10) units shall be sold to Eligible Buyers Income Range 1; nine (9) units Eligible Buyers in Income Range 2; nine (9) units to Eligible Buyers in Income Range 3; and twelve (12) units to Eligible Buyers in Income Range 4.
- Exhibit A of the amendment, for Minimum Structural Requirements #5 was changed to 3 ply modified bitumen, or metal roof with single ply underlayment.

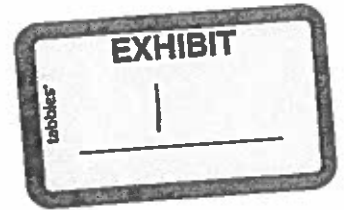
Staff Recommendation:

Staff recommends approval of the First Amendment to Amended and Restated Santa Fe County Affordable Housing Agreement for La Entrada Phase 1.

Attachments:

- Exhibit 1: 1st Amendment to the Amended and Restated Santa Fe County Affordable Housing Agreement for La Entrada Phase 1.
- Exhibit 2: 2012 Amended and Restated Santa Fe County Affordable Housing Agreement La Entrada Phase 1.

**SANTA FE COUNTY
FIRST AMENDMENT TO THE
AMENDED AND RESTATED SANTA FE COUNTY
AFFORDABLE HOUSING AGREEMENT
FOR LA ENTRADA PHASE 1**



This First Amendment to that certain "Amended and Restated Santa Fe County Affordable Housing Agreement for La Entrada Phase I" (the "Agreement"), effective as of the last signature date provided below, is entered into by and between Univest-Rancho Viejo, LLC ("Applicant"), a New Mexico limited liability corporation, as developer of the La Entrada Phase I subdivision ("La Entrada"), and Santa Fe County (the "County").

RECITALS

A. The County and the Applicant entered into the Agreement on December 12, 2012. The purpose of the Agreement is, among other things, to set forth the number of Affordable Units required at La Entrada Phase 1 ("La Entrada") under the County's Affordable Housing Program, including Ordinance No. 2012-12 and the Affordable Housing Regulations ("Regulations") adopted under Resolution No. 2010-189.

B. Ordinance No. 2012-1 provides that, "Of the total housing provided ..., not less than ... (15%) shall be Affordable Housing" Based on the Applicant's original plat identifying a total of 454 units at La Entrada, Section 4 of Agreement correctly provided that 68 Affordable Units must be provided. However, on _____, 2015, the County approved the Applicant's proposed La Entrada plat amendment. The plat amendment increased the lot sizes at La Entrada and reduced the total number of dwelling units from 454 to 404. Therefore, the parties desire to amend the Agreement, including Exhibit B to the Agreement, because the reduction in total dwelling units reduces the number of Affordable Units required under Ordinance No. 2012-2 from 68 to 61.

C. Section 6.1.4 of the Regulations provides that the "County will issue a Certificate of Compliance" ... upon "receipt and review by the County of the closing statement" for each Qualified Transaction. Section 2 of the Agreement provided Certificates of Compliance for fifteen Qualified Transactions that had occurred as of the date of the Agreement. However, six additional Qualified Transaction occurred at La Entrada after the effective date of the Agreement. Therefore, the parties now desire to amend the Agreement to provide an additional Certificate of Compliance.

D. Section 2 of the Agreement erroneously indicates that 137 Affordable Units are required at La Entrada. Therefore, the parties desire to amend Section 2 to indicate that only 61. Affordable Units are required.

AGREEMENT

NOW, THEREFORE, the Agreement is amended as follows:

- 1) Section 2 of the Agreement is deleted and replaced with the following:

"2. Certification of Previous Qualified Transactions. The County hereby certifies that, as of the effective date of this First Amendment, Applicant completed twenty-one (21) Qualified Transactions. Six (6) of the Qualified Transactions involved Eligible Buyers in Income Range 1; six (6) in Income Range 2; six (6) in Income Range 3; and three (3) in Income Range 4.

- 2) Section 4 of the Agreement is deleted and replaced with the following:

"4. Required Affordable Units and Lots. Under the approved plat amendment of La Entrada Phase 1, dated _____, the total number of units at La Entrada will be four hundred and four (404), and therefore, sixty one (61) Affordable Units are required under Section 3 of this Agreement. After taking into account the twenty-one (21) prior Qualified Transactions described in Section 2 of this Agreement, Applicant shall build and sell, or cause to be built and sold, forty (40) additional Affordable Units at La Entrada Phase 1. The Affordable Units shall be sold to Eligible Buyers or Entry Market Buyers (collectively, "Eligible Buyers") at the Maximum Target Housing Prices ("Maximum Prices") established by the County for Income Ranges 1, 2, 3 and 4, all in accordance with the Regulations and applicable ordinances and resolutions in effect as of the date of this First Amendment. The additional forty (40) Affordable Units shall be divided among the four Income Ranges, as follows: ten (10) units shall be sold to Eligible Buyers in Income Range 1; nine (9) units to Eligible Buyers in Income Range 2; nine (9) units to Eligible Buyers in Income Range 3; and twelve (12) units to Eligible Buyers in Income Range 4. As provided in the Regulations, the Maximum Prices represent the maximum effective purchase prices to be paid by the Eligible Buyer, after any subsidies are applied, including the County Affordability Mortgage and Lien. The contract sales prices, as set forth in the HUD-1 settlement statement, for all Affordable Units may be greater than the Maximum Prices and shall be set between ninety five percent (95%) and one hundred percent (100%) of the unit's appraised value. All Affordable Units shall meet the minimum structural requirements, minimum bedrooms and bathrooms, minimum heated floor area, and other requirements set forth in Exhibit A. The Applicant shall make available two, three and four bedroom Affordable Units for sale, however, the final mix of unit types shall be determined by the market.

- 3) Exhibit A of the Agreement is deleted and replaced with the Exhibit A attached to this First Amendment.

4) Exhibit B of the Agreement is deleted and replaced with the Exhibit B attached to this First Amendment.

5) Except as expressly amended by this First Amendment, all other provisions of the Agreement shall remain in full force and effect.

APPLICANT:

Univest-Rancho Viejo, LLC

By: _____
Warren Thompson, Manager

Date:

SANTA FE COUNTY

By: _____
Robert A. Anaya, Chair
Board of County Commissioners

Date:

By: _____
Katherine Miller
County Manager

Date:

By: _____
Affordable Housing Administrator

Date:

ATTEST:

Geraldine Salazar, County Clerk

Date:

STATE OF NEW MEXICO)
) SS
COUNTY OF SANTA FE)

Notary Public

STATE OF NEW MEXICO)
) SS
COUNTY OF SANTA FE)

Notary Public

Exhibit A
AFFORDABLE UNIT PRICING, INCOME RANGES AND OTHER DATA

Maximum Target Housing Price – Set forth in the Affordable Housing Regulations. The County expects that Maximum Target Housing Prices may be revised no later than December 31, 2012. Applicant agrees to be subject to these revised Maximum Target Housing Prices.

Applicant will make available 2, 3, and 4 bedroom within each Income Range and to have the units spread evenly over the 4 Income Ranges.

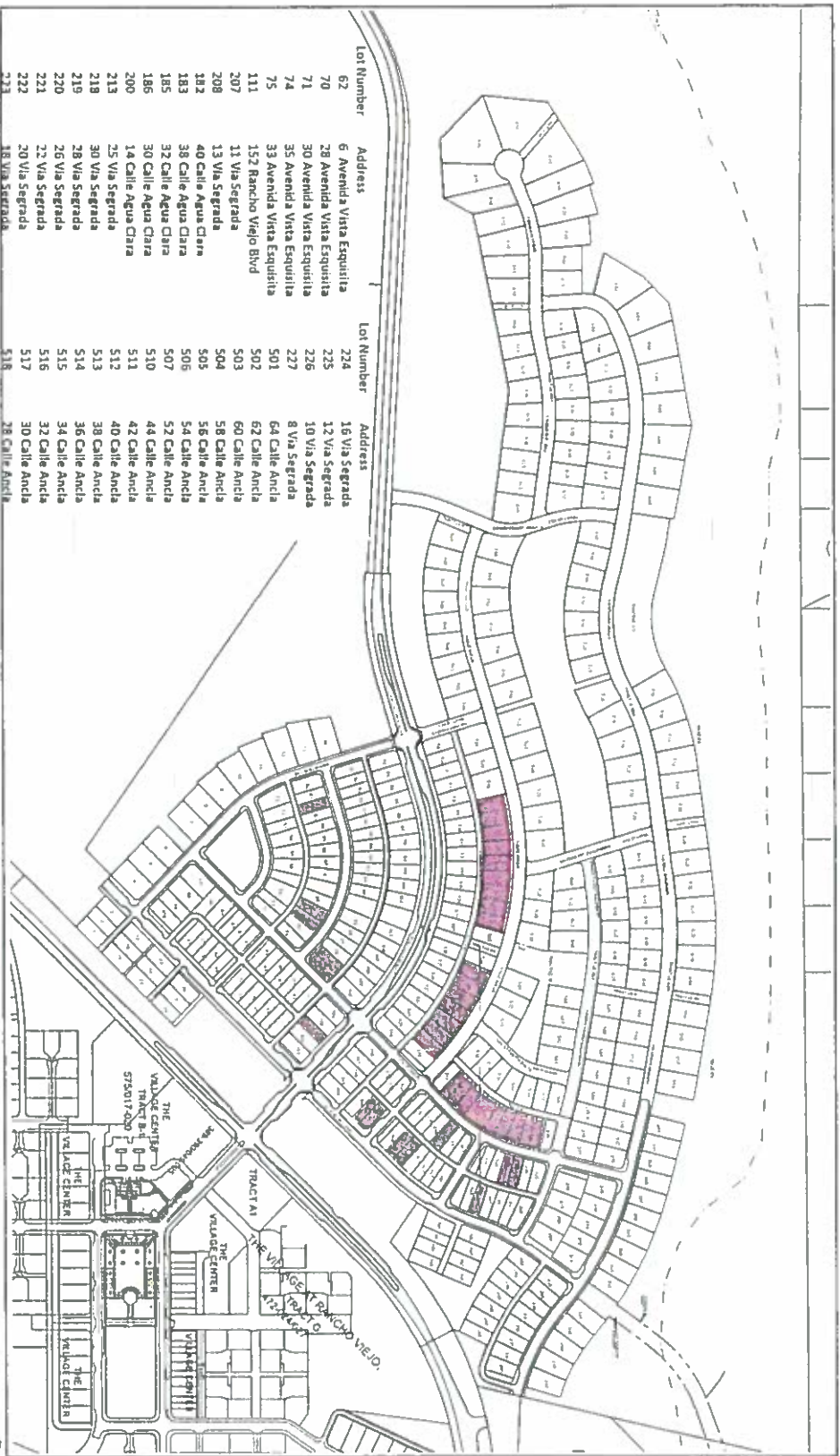
Minimum House size (heated square footage) and Minimum Number of Baths:

2 Bedroom/1 Bath	3 Bedroom/2 Bath	4 Bedroom/2Bath
1,000 sq. ft.	1,150 sq. ft.	1,300 sq. ft.

Minimum Structural Requirements

The homes constructed pursuant to this Amended and Restated Agreement shall comply with Section 3 of the Regulations, unless otherwise stated herein, and shall include the following:

1. Slab on grade
2. 2 by 4 wood frame construction
3. Vinyl, dual pane windows
4. 2-coat stucco system
5. 3 ply Modified Bitumen or Metal roof with single ply underlayment
6. Forced air heat with gas furnace
7. 40 gallon gas water heater
8. Hollow core slab interior doors—insulated steel front entry door
9. Flat panel cabinetry
10. Laminate countertops
11. Freestanding gas or electric range, dishwasher, hood vent and in-sink disposal
12. Acrylic latex interior paint
13. Carpet and vinyl flooring (tile optional)
14. 2-Category 5 telephone outlets
15. 2-RG6 CATV outlets
16. Energy Efficiency – Plans for all homes to be constructed shall be designed with HERS Rating of 70 or below.
17. Garages: Applicant agrees to provide a minimum 1 car garage for all Affordable Units and shall use its best efforts to provide a 2 car garage for future three and four bedroom units.
18. Standard equipment and equipment hookups shall be provided per the Regulations.



Lot Number	Address	Lot Number	Address
62	6 Avenida Vista Esquisita	224	16 Via Segrada
70	28 Avenida Vista Esquisita	225	12 Via Segrada
71	30 Avenida Vista Esquisita	226	10 Via Segrada
74	35 Avenida Vista Esquisita	227	8 Via Segrada
75	33 Avenida Vista Esquisita	501	64 Calle Ancla
111	152 Rancho Viejo Blvd	502	62 Calle Ancla
207	11 Via Segrada	503	60 Calle Ancla
208	13 Via Segrada	504	58 Calle Ancla
182	40 Calle Agua Clara	505	56 Calle Ancla
183	38 Calle Agua Clara	506	54 Calle Ancla
185	32 Calle Agua Clara	507	52 Calle Ancla
200	30 Calle Agua Clara	510	48 Calle Ancla
186	14 Calle Agua Clara	511	46 Calle Ancla
213	25 Via Segrada	512	44 Calle Ancla
218	30 Via Segrada	513	42 Calle Ancla
219	28 Via Segrada	514	40 Calle Ancla
220	26 Via Segrada	515	38 Calle Ancla
221	22 Via Segrada	516	36 Calle Ancla
222	20 Via Segrada	517	34 Calle Ancla
223	18 Via Segrada	518	32 Calle Ancla

LA ENTRADA al RANCHO VIEJO

PROYECTO DE ORDENAMIENTO TERRITORIAL



SFC CLERK RECORDED 02/18/2013

**AMENDED AND RESTATED
SANTA FE COUNTY
AFFORDABLE HOUSING AGREEMENT
LA ENTRADA PHASE 1**

This Amended and Restated Santa Fe County Affordable Housing Agreement for La Entrada Phase 1 is made and entered into this 12th day of December, 2012, by and between Univest-Rancho Viejo, LLC, a New Mexico limited liability corporation with its principal place of business at 5 Bisbee Court Suite 106, Santa Fe, NM 87508 (the "Applicant") and Santa Fe County (the "County").

RECITALS:

WHEREAS, the Applicant's predecessor in interest, Rancho Viejo de Santa Fe, Inc. received approval of a 454 lot subdivision named La Entrada Phase 1 (the "Project") and located at Rancho Viejo within central or northern Santa Fe County; and

WHEREAS, Santa Fe County Ordinance No. 2006-02 and Santa Fe County Ordinance No. 2012-01 ("Ordinances") requires, among other things, the Applicant to provide Affordable Units within La Entrada Phase I and/or comply with the Ordinances through alternative means; and

WHEREAS, the County has adopted Resolution No. 2010-189, the Santa Fe County Affordable Housing Regulations ("Regulations") to implement the Ordinance; and

WHEREAS, pursuant to the Ordinance and Regulations, Applicant submitted an Affordable Housing Plan, which was approved by the Affordable Housing Administrator; and

WHEREAS, on December 7, 2006, Applicant and the County entered into the Santa Fe County Affordable Housing Agreement La Entrada Phase I to memorialize the Applicant's obligations under Santa Fe County Ordinances and Affordable Housing Regulations in La Entrada Phase 1 (the "Agreement") which Agreement was recorded on December 11, 2006, as Instrument # 1462697 of the records of the Santa Fe County Clerk, Santa Fe, New Mexico; and

WHEREAS the Agreement was amended twice by written Amendments dated January 31, 2008, and recorded January 31, 2008 as Instrument #1514008 and a second Amendment dated December 2, 2008 and recorded December 9, 2008 as Instrument #1546175; and

WHEREAS, paragraph 11G of the Agreement states that it shall not be altered, changed or amended except by instrument in writing executed by the parties hereto; and

WHEREAS the parties wish to further amend their Agreement and restate the Agreement, for the sake of clarity and simplicity, and through this Agreement the Parties intend to memorialize the Applicant's obligations under the Ordinances and Regulations.

AGREEMENT

NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS:

The Agreement dated December 7, 2006, as amended is further amended and restated by this Amended and Restated Agreement.

1. **Definitions.** All capitalized terms have the same meanings given them in the Ordinances and Regulations.

2. **Certification of Previous Qualified Transactions.** From the date of the Agreement up until the date of execution of this Amended and Restated Agreement, Applicant has identified one hundred thirty seven (137) lots on which it would build or cause to be built Affordable Units and has delivered fifteen (15) Affordable Units that are Qualified Transactions in compliance with the Regulations. Four (4) of these Affordable Units were sold in Income Range 1; five (5) Affordable Units were sold in Income Range 2; three (3) Affordable Units were sold in Income Range 3; and three (3) Affordable Units were sold in Income Range 4.

3. **Controlling Affordable Housing Ordinance and Regulations.** The Ordinances shall apply to the Project and the Master Plan for the Project, and the applicable affordable housing percentage requirement for the Project is fifteen percent (15%). The Ordinances and the Regulations are applicable and shall govern the Applicant's performance of all obligations under this Amended and Restated Agreement, unless otherwise stated herein.

4. **Required Affordable Units and Lots.** To comply with the fifteen percent (15%) affordable housing requirement for the Project set forth in Section 3 and the 68.1 Affordable Units required for the 454 unit Project, Applicant agrees to cause to be built and sold to Eligible Buyers and Entry Market Buyers an additional fifty three (53) Affordable Units within La Entrada Phase 1 for the Maximum Target Housing Prices for Income Ranges 1, 2, 3 and 4 set forth in the Regulations. The County may revise the Maximum Target Housing Prices by December 31, 2012 and the Applicant agrees to be subject to this revision. Until this revision is made, the Applicant shall be subject to the current Maximum Target Housing Prices in the Regulations. The Maximum Target Housing Prices represent the maximum effective purchase prices to be paid by the Eligible Buyer or Entry Market Buyer, after any subsidies are applied, including the County Affordability Mortgage and Lien. The contract sales prices, as set forth in the HUD-1 settlement statement, for all Affordable Units may be greater than the Maximum Target Housing Prices and shall be set between the ninety five percent (95%) and one hundred percent (100%) of the unit's appraised value. These fifty three (53) Affordable Units are in addition to the fifteen (15) Affordable Units already completed: Applicant agrees to cause to be built and sold thirteen (13) units in Income Range 1; twelve (12) units in Income Range 2; fourteen (14) units in Income Range 3 and fourteen (14) units in Income Range 4. All Affordable Units shall meet the minimum structural requirements, minimum bedrooms and bathrooms, minimum heated floor area, and other requirements set forth in Exhibit A. The Applicant shall make available two, three and four bedroom Affordable Units for sale, however, the final mix of unit types shall be

determined by the market. In addition, Applicant agrees to pay a Residual Fee for the 0.1 Affordable Unit required, per the formula set forth in the Regulations.

5. **Adjustment of Maximum Target Housing Prices.** The Maximum Target Housing Prices as defined in Section 4 shall be adjusted every three (3) years from the date of execution of this Amended and Restated Agreement. The adjustment shall correspond to an increase or decrease in the revised Maximum Target Housing Prices in the Regulations, and shall be limited to the lesser of five percent (5%) of the Maximum Target Housing Prices set forth in the Regulations, using the anticipated December 31, 2012 revision, or the change in the Maximum Target Housing Prices in the Regulations between the anticipated December 31, 2012 revision and the Maximum Target Housing Prices in effect three (3) years from the date of this Amended and Restated Agreement. In the case of documented substantial and unanticipated increases in the cost of construction that would cause the Applicant to terminate the Project if no action were taken, the Applicant may request the County to amend this Amended and Restated Agreement. Action on such a request may only be taken by the Board of County Commissioners, in its sole discretion.

6. **Adjustment of Maximum Target Housing Prices Due to Homeowners Association Fees.** In the event that the homeowners' association fee applicable to an Affordable Unit exceeds \$100 per month (regardless of the billing cycle), the Maximum Target Housing Price, as defined in Section 4, for the Affordable Unit shall be reduced by the Applicant so that the buyer's mortgage loan principal amount is reduced by the amount that the monthly fee exceeds \$100. Applicant must disclose the homeowners' association fee to the County and make any required adjustment to the Maximum Target Housing Price in order for the Affordable Unit sale to be certified as a Qualified Transaction.

7. **Alternate Means of Compliance in Lieu of Construction.** Notwithstanding any provision of the Ordinances, the parties may agree to an Alternate Means of Compliance for the fulfillment of the Applicant's affordable housing obligations. This Alternate Means of Compliance may involve cash payment, land donation or a combination of both, in the amount of the required total contribution to be made under the Alternate Means of Compliance. Any land donation would be for a housing project (s) within Rancho Viejo. The County would agree to offset the amount to be paid under the Alternate Means of Compliance by the appraised value of the land contributed, as determined by an MAI appraiser. The Applicant would agree to contribute in cash the difference between the appraised value of the land and the total contribution required under the Alternate Means of Compliance. Upon receipt of the required contributions, the County would issue a certificate of compliance with this Amended and Restated Agreement. Applicant may utilize the Alternate Means of Compliance only if the language in the current Ordinances and Regulations is amended to make this approach an economically feasible option.

8. **Development Schedule.** The parties agree that the development schedule for the Project, including individual phases shall use the same ratio for the number of constructed Affordable Units as to the number of constructed market units. For example, in a 100-lot subdivision in which 15 units are required to be affordable, three (3) Affordable Units must be constructed for every twenty (20) market units constructed. If the required number of Affordable Units are not built in a particular forty (40) unit increment, and the Applicant has not been granted an

Affordable Lot Substitution per Section 9, or has not made payment per Section 17 - Remedies, the County may withhold permit approvals of homes in future increments, or impose the payment provisions of Section 17 for the number of required and unsold Affordable Units.

9. Integration of Affordable Units in the Project. The lots designated in Exhibit B are the lots upon which Affordable Units shall be built in conformance with the Ordinance and the Regulations. The Applicant may replace a designated Affordable Lot with an alternate Affordable Lot within the subdivision by submitting a lot substitution form, Exhibit C, for consideration by the Affordable Housing Administrator. Absent approval by the Affordable Housing Administrator, the lot substitution will not be implemented.

10. Marketing Plan. In accordance with the Affordable Housing Plan, Applicant agrees to market the Affordable Units in the following manner:

- By distribution of flyers and other promotional media.
- By providing information to non-profit entities designated by the County to perform homebuyer training and assist first time homebuyers.

11. Closing of Qualified Transactions. All Qualified Transactions shall be closed in accordance with the procedures in this Section.

A. Notice of Closing; Appraisal. The Applicant shall give the County at least ten (10) days' advance written notice of the scheduled closing date for a Qualified Transaction. The notice shall include:

1. The name of the Eligible or Entry Market Buyer (s) as well as a copy of their Certification of Eligibility;
2. The date and time of the scheduled closing;
3. The name and location of the title company closing the transaction and the name and telephone number of the closing agent(s);
4. An appraisal of the Affordable Unit being sold, which appraisal shall (i) be prepared by a properly licensed, certified real estate appraiser; (ii) be paid for by the Applicant, unless such appraisal is required by the mortgage lender, in which case it shall be paid for by the lender or the Eligible or Entry Market Buyer; and (iii) has been prepared within the previous six (6) months.

B. Recordation of Affordability Mortgage and Lien. The Ordinances' goals of having Affordable Units owner-occupied by Eligible Buyers or Entry Market Buyers and maintaining long term affordability shall be achieved through the execution at closing of a County Affordability Mortgage and Lien, which contains a right of first refusal and shared appreciation requirements, as set forth in the Ordinances and the Regulations. At least two (2) business days prior to the date of the scheduled closing, the County shall deliver to the title company (with a copy to the Applicant and the Eligible Buyer or Entry Market Buyer) the Affordability Mortgage and Lien along with written instructions to the closing agent concerning the execution, recording, and returning of the Affordability Mortgage and Lien. Any cost associated with the recording and returning of the Affordability Mortgage and Lien shall be borne by the Applicant.

C. Settlement Statement. The Applicant shall cause the title company to transmit, within ten (10) days of the closing of a Qualified Transaction, a copy to the County of the Settlement Statement (HUD-1) for the Qualified Transaction, signed by the seller and purchaser.

D. Certificate of Compliance. Upon receipt and review by the County of the closing statement from the title company or the Applicant, the County shall issue a Certificate of Compliance for the Qualified Transaction.

12. Affordability Lien and Maintenance of Long-Term Affordability.

Notwithstanding the provisions of Section 11, County and Applicant agree that the Applicant may provide the required Affordable Units through a program with a non-profit housing organization where the non-profit holds a lien in lieu of the County affordability lien provided that the total lien held by the non-profit, including its cash subsidy, can be no greater than three (3) times the amount of cash proven to be contributed by the non-profit from its own funds to subsidize the homeowner. Furthermore, the principal amount of the lien shall equal the contract sales price as shown on the HUD-1 settlement statement, which includes all liens; less the effective sales price, which is the affordable buyer's first mortgage amount plus downpayment from their own funds; less the cash subsidy contributed by entities other than the non-profit. If there remains a difference between the total principal amount of the lien that is allowed per the above formula and the maximum lien amount that can be retained by the non-profit, as set forth above, the difference shall become the principal amount of a separate subordinate County affordability mortgage and lien. The effective sales price paid by the Eligible Buyer or Entry Market Buyer after any subsidy shall be less than or equal to the Maximum Target Housing Price, as set forth in the Affordable Housing Regulations. Applicant agrees that the contract sales price for an Affordable Unit must be set between ninety-five percent (95%) and one hundred percent (100%) of the unit's appraised value. Applicant agrees that the note and mortgage instruments used by the non-profit to secure this lien shall represent a deferred payment, non-amortizing, zero percent (0%) loan that shall not include a shared appreciation provision, nor include a right of first refusal with the County and must be approved by the Affordable Housing Administrator. Applicant agrees that the difference between the cash subsidy provided by the non-profit and the total amount of the lien retained by the non-profit shall, upon payoff of this subsidy loan, be committed to affordable housing programs for households in Santa Fe County, per an agreement between the non-profit and the Applicant, a copy of which shall be provided to the County prior to the first closing of an Affordable Unit under this Amended and Restated Agreement. Applicant agrees that for such a transaction to be certified as a Qualified Transaction, all other provisions of Section 11 of this Amended and Restated Agreement must be satisfied, along with all provisions of the Affordable Housing Ordinance, 2012 Ordinance and Affordable Housing Regulations, unless otherwise stated herein.

13. **Affordable Housing Credit for Qualifying Market Rate Transaction.** County and Applicant agree that the Applicant shall receive an affordable housing credit for a Qualifying Market Rate Transaction to an Eligible Buyer or Entry Market Buyer income-certified by the County as qualifying to purchase within a designated Income Range at a contract sales price, as set forth in the HUD-1 settlement statement, equal to or less than the Maximum Target Housing Price for the applicable housing type and Income Range, as set forth in the Regulations.

Applicant may charge any lot premium or option provided that total contract sales price is equal to or less than the Maximum Target Housing Price for the applicable housing type and Income Range, as set forth in the Regulations. Furthermore, the contract sales price of the Qualifying Market Rate Transaction must be set between ninety five percent (95%) and one hundred percent (100%) of the unit's appraised value and the Qualifying Market Rate Transaction must comply with Section 14 of this Amended and Restated Agreement and all other provisions of the Ordinances and Regulations, unless otherwise stated herein. For a Qualifying Market Rate Transaction, the County agrees that there shall be no County affordability lien or shared appreciation with the County, unless the County provides other assistance where program regulations require such instruments.

14. Closing of Qualifying Market Rate Transactions. All Qualifying Market Rate Transactions shall be closed in accordance with the procedures in this Section.

A. Notice of Closing; Appraisal. The Applicant shall give the County at least ten (10) days' advance written notice of the scheduled closing date for a Qualifying Market Rate Transaction. The notice shall include:

1. The name of the Eligible or Entry Market Buyer(s) as well as a copy of their Certification of Eligibility;
2. The date and time of the scheduled closing;
3. The name and location of the title company closing the transaction and the name and telephone number of the closing agent(s).
4. An appraisal of the market rate unit being sold, which appraisal shall (i) be prepared by a properly licensed, certified real estate appraiser; (ii) be paid for by the Applicant, unless such appraisal is required by the mortgage lender, in which case it shall be paid for by the lender or the Eligible or Entry Market Buyer; and (iii) have been prepared within the previous 6 months.

B. Affordability Mortgage and Lien. If an Eligible or Entry Market Buyer is buying a market rate home where the contract sales price, as set forth in the HUD-1 settlement statement, is less than or equal to the Maximum Target Housing Price for the applicable housing type and Income Range within which the Eligible or Entry Market Buyer qualifies, as set forth in the Regulations, there shall be no Affordability Mortgage and Lien or Shared Appreciation, unless the County provides other assistance where program regulations require such instruments.

C. Settlement Statement. The Applicant shall cause the title company to transmit, within ten (10) days of the closing of a Qualifying Market Rate Transaction, a copy to the County of the Settlement Statement (HUD 1) for the Qualifying Market Rate Transaction, signed by the seller and purchaser.

D. Affordable Housing Credit and Certificate of Compliance. Provided that the Applicant complies with all provisions of this Amended and Restated Agreement, the Ordinances and the Regulations, unless otherwise stated herein, and upon receipt and review by the County of the closing statement from the title company or the Applicant, the County shall

grant the Applicant affordable housing credit within the Eligible Buyer's or Entry Market Buyer's Income Range for a Qualifying Market Rate Transaction and shall issue a Certificate of Compliance for the transaction.

15. **Incentives.** In consideration of Applicant's obligations hereunder and in accordance with the Ordinances, the County has agreed to provide the following incentives to the Applicant:

A. Relief from Development Fees. County agrees to waive all development fees for each Affordably Priced Housing Unit and Entry Market Housing Unit to be provided by Applicant hereunder.

B. Relief from County Water Utility Connection Charge. County agrees to waive any water connection charges that exceed the cost of the water meter for each of the Affordably Priced Housing Units and Entry Market Housing Units to be provided by Applicant hereunder; provided, however, that nothing herein shall relieve Applicant of any obligation it may have under any Water Service Agreement with the County to provide a line extension or other infrastructure to the Affordably Priced Housing Units and Entry Market Housing Units.

C. Water for Affordably Priced Housing Units. County agrees to supply the Affordably Priced Housing Units and Entry Market Housing Units identified in Section 4 above with water, including all necessary water rights pursuant to Section 8 of the Ordinance, provided that the Affordably Priced Units and Entry Market Units are constructed. This does not obligate the County to provide a water line extension or other water infrastructure to the development.

16. **Successors, Assigns and Buyers of Affordable Lots.** Applicant's obligations hereunder shall be binding upon its successors and assigns as well as any developer, contractor, or other third party (other than an Eligible Buyer or Entry Market Buyer) to whom an Affordable Lot identified in Exhibit B is transferred. Applicant agrees to provide County with ten (10) business days advance written notice of its intent to transfer an Affordable Lot to someone other than an Eligible Buyer or Entry Market Buyer, along with a request for lot substitution as set forth in Section 9 of this Amended and Restated Agreement.

17. **Remedies.** Applicant acknowledges and agrees that, but for the Affordable Housing Agreement, County would not have approved the master plan and final plat for the Project. Applicant further acknowledges and agrees: (i) that because the integrated Affordable Units to be provided by Applicant are a public good, no adequate remedy exists at law to remedy Applicant's failure to fulfill its obligations hereunder; and (ii) that it would be inconvenient and unfeasible for County to accurately measure the value of some of the incentives that Applicant received hereunder; and (iii) an appropriate remedy for Applicant selling Affordable Lots to non-Eligible Buyers or non-Entry Market Buyers, as the case may be, or for Applicant to not provide the required number of Affordable Units in the Project or a phase of the Project, is to: (a) pay the County 50% of the Maximum Target Housing Price set forth in the Regulations for each required Affordable Unit, defined as a three bedroom unit, in the applicable Income Range; (b) collect all development fees and water connection charges that were waived for each house on an Affordable Lot; (c) collect the current market price of water rights utilized by the County to provide water to each house on an Affordable Lot.

In the event Applicant does not sell Affordable Units to Eligible Buyers or Entry Market Buyers in the amount required in Section 4 within ten (10) years, which time may be extended by the County if a proportional number of market rate units also remains unsold, and has not paid the County 50% of the Maximum Target Housing Price set forth in the Regulations for each required Affordable Unit, defined as a three bedroom unit, in the applicable Income Range, the County shall be entitled to:

- A. Execute an injunction halting all construction or development on the Project until such time as Applicant remedies its breach and complies with its obligations hereunder;
- B. Refuse to grant preliminary or final plat approval for any future phase of the Project;
- C. Collect all development fees and water connection charges that were waived for each house on an Affordable Lot that Applicant sold to a non-Eligible Buyer or non-Entry Market Buyer, as the case may be;
- D. Collect the current market price of water rights utilized by the County to provide water to each house on an Affordable Lot that Applicant sold to a non-Eligible Buyer or non-Entry Market Buyer, as the case may be.
- E. Receive title at no cost to all remaining identified Affordable Lots, per Exhibit B.
- F. Receive 50% of the Maximum Target Housing Price set forth in the Regulations, for each required, yet unsold Affordable Unit, defined as a three bedroom unit, in the applicable Income Range.
- G. Notwithstanding the foregoing provisions, whenever a period of time or specified date is herein prescribed for action to be taken by any party, there shall be excluded from the computation of any such period of time or an extension of such specified date, any delays due to strikes, riots, acts of God (excluding weather delays reasonably and historically known to occur, as defined by a ten (10) year average of the U.S. Meteorological Survey data, or similarly and mutually acceptable data, in the geographical area of the Property), shortages of labor or materials outside of the parameters typically found in the geographical area of the Property, war, terrorism or governmental laws, regulations, restrictions or moratoriums (except to the extent waived or otherwise not applied to the Project or the Property) and unforeseeable delays by the Project lender; provided, however, that both Parties shall use their best and diligent efforts to mitigate the effects of such occurrences with respect to the required action. Subject to the foregoing, time is of the essence with respect to each and every provision of this Amended and Restated Agreement.

18. Miscellaneous Provisions.

A. If any provision of this Amended and Restated Agreement or the application thereof to any person or circumstances is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Amended and Restated Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable.

B. This Amended and Restated Agreement shall be construed and enforced in accordance with the Ordinances and Regulations and the laws of the State of New Mexico.

C. No actions taken by the parties following a breach of any of the terms contained in this Amended and Restated Agreement shall be construed to be a waiver of any claim or consent to any succeeding breach of the same or any other term.

D. This Amended and Restated Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Amended and Restated Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Amended and Restated Agreement.

E. At the request of County, Applicant shall provide the County with such documentation the County deems relevant to establish Applicant's compliance with this Amended and Restated Agreement. Any failure by Applicant to comply with this subparagraph shall constitute a breach of this Amended and Restated Agreement, subjecting Applicant to the per unit payment provisions of Section 17 above, multiplied by the number of Affordable Units for which information has been requested.

F. This Amended and Restated Agreement shall not relieve Applicant from complying with present or future County ordinances, duly adopted resolutions or regulations applicable to development within the County.

G. This Amended and Restated Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties thereto.

H. This Amended and Restated Agreement must be filed and recorded.

I. Entering into this Amended and Restated Agreement does not prohibit Applicant or Applicant's buyers from applying for downpayment assistance from the County under the program which may be in effect at that time.

19. This Amended and Restated Agreement shall terminate upon the County issuing a certificate of compliance with the Amended and Restated Agreement in accordance with Section 7.5 of the Regulations. The County may terminate this Amended and Restated Agreement and impose all Section 17 enabled payments for the required, yet unsold Affordable Units and recapture the cost of any granted incentives in the event of a breach of the Amended and Restated Agreement by Applicant.

IN WITNESS WHEREOF, the parties have duly executed this Amended and Restated Affordable Housing Agreement as of this 12th day of December, 2012.

APPLICANT:

Univest-Rancho Viejo, LLC
A New Mexico limited liability corporation

By: Warren Thompson
Warren Thompson

Its: Manager
Manager

1/23/13
Date:

SANTA FE COUNTY

By: Kathleen Miller
Board of County Commissioners

APPROVED AS TO FORM:

By: Stephen Ross
Stephen Ross, County Attorney

SANTA FE COUNTY AFFORDABLE
HOUSING ADMINISTRATOR

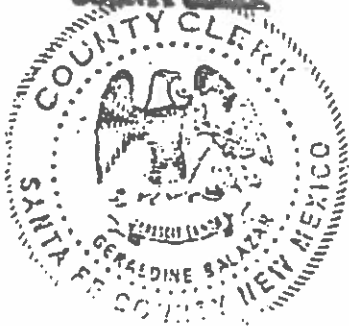
Steven Brugger
By: Steven Brugger, AICP

Katherine Miller
By: Katherine Miller, County Manager

1/23/13
Date:

ATTEST

Geraldine Salazar 2/15/13
GERALDINE SALAZAR
COUNTY CLERK

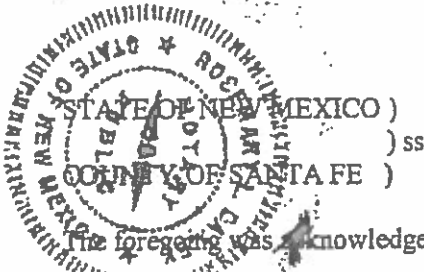


COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

AMENDED HOUSING ACREE
PAGES: 16

I Hereby Certify That This Instrument Was Filed for
Record On The 18TH Day Of February, 2013 at 10:13:02 AM
And Was Duly Recorded as Instrument # 1695784
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Deputy Maxwell Salazar Geraldine Salazar
County Clerk, Santa Fe, NM



The foregoing was acknowledged before me this 23 day of January, 2013 by

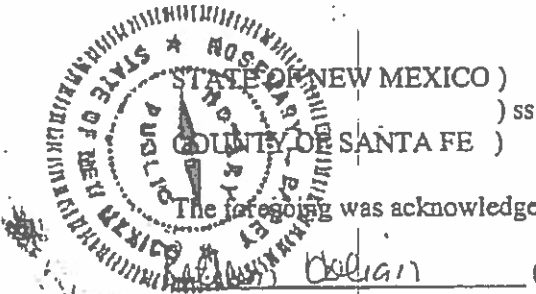
Narissa Thompson (name), Manager (title) of Univest-Rancho Viejo, LLC, a

New Mexico corporations, on behalf of said corporation.

Rosemary A. Bailey
Notary Public

My commission expires:

March 2, 2013



The foregoing was acknowledged before me this 7th day of February, 2013 by

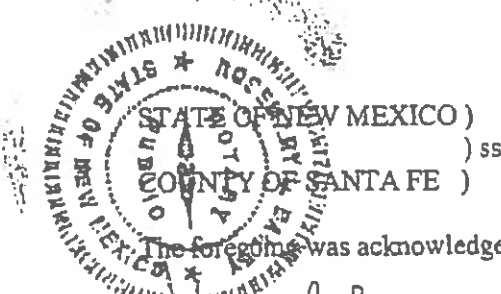
Rachel Delgin (name), Chair Board of County Commissioners (title) of the Santa Fe County Board of

County Commissioners.

Rosemary A. Bailey
Notary Public

My commission expires:

March 2, 2013



The foregoing was acknowledged before me this 23 day of January, 2013 by

Steven L. Bruggen (name), Affordable Housing Administrator (title) of the Santa Fe County

Affordable Housing Program.

Rosemary A. Bailey
Notary Public

My commission expires:

March 2, 2013

Exhibit A
AFFORDABLE UNIT PRICING, INCOME RANGES AND OTHER DATA

Maximum Target Housing Price – Set forth in the Affordable Housing Regulations. The County expects that Maximum Target Housing Prices may be revised no later than December 31, 2012. Applicant agrees to be subject to these revised Maximum Target Housing Prices.

Applicant will make available 2, 3, and 4 bedroom within each Income Range and to have the units spread evenly over the 4 Income Ranges.

Applicant agrees to provide a proportionate number of the required units in Income Ranges 1, 2, 3 and 4 in both Phases 1A and 1B.

Minimum House size (heated square footage) and Minimum Number of Baths:

2 Bedroom/1 Bath	3 Bedroom/2 Bath	4 Bedroom/2Bath
1,000 sq. ft.	1,150 sq. ft.	1,300 sq. ft.

Minimum Structural Requirements

The homes constructed pursuant to this Amended and Restated Agreement shall comply with Section 3 of the Regulations, unless otherwise stated herein, and shall include the following:

1. Slab on grade
2. 2 by 4 wood frame construction
3. Vinyl, dual pane windows
4. 2-coat stucco system
5. 2" spray on polyurethane foam roof or single ply membrane roof
6. Forced air heat with gas furnace
7. 40 gallon gas water heater
8. Hollow core slab interior doors—insulated steel front entry door
9. Flat panel cabinetry
10. Laminate countertops
11. Freestanding gas or electric range, dishwasher, hood vent and in-sink disposal
12. Acrylic latex interior paint
13. Carpet and vinyl flooring (tile optional)
14. 2-Category 5 telephone outlets
15. 2-RG6 CATV outlets
16. Energy Efficiency – Plans for all homes to be constructed shall be designed with HERS Rating of 70 or below.

17. Garages: Applicant agrees to provide a minimum 1 car garage for all Affordable Units and shall use its best efforts to provide a 2 car garage for future three and four bedroom units.

18. Standard equipment and equipment hookups shall be provided per the Regulations.

[illegible]

Exhibit C: LOT SUBSTITUTION FORM

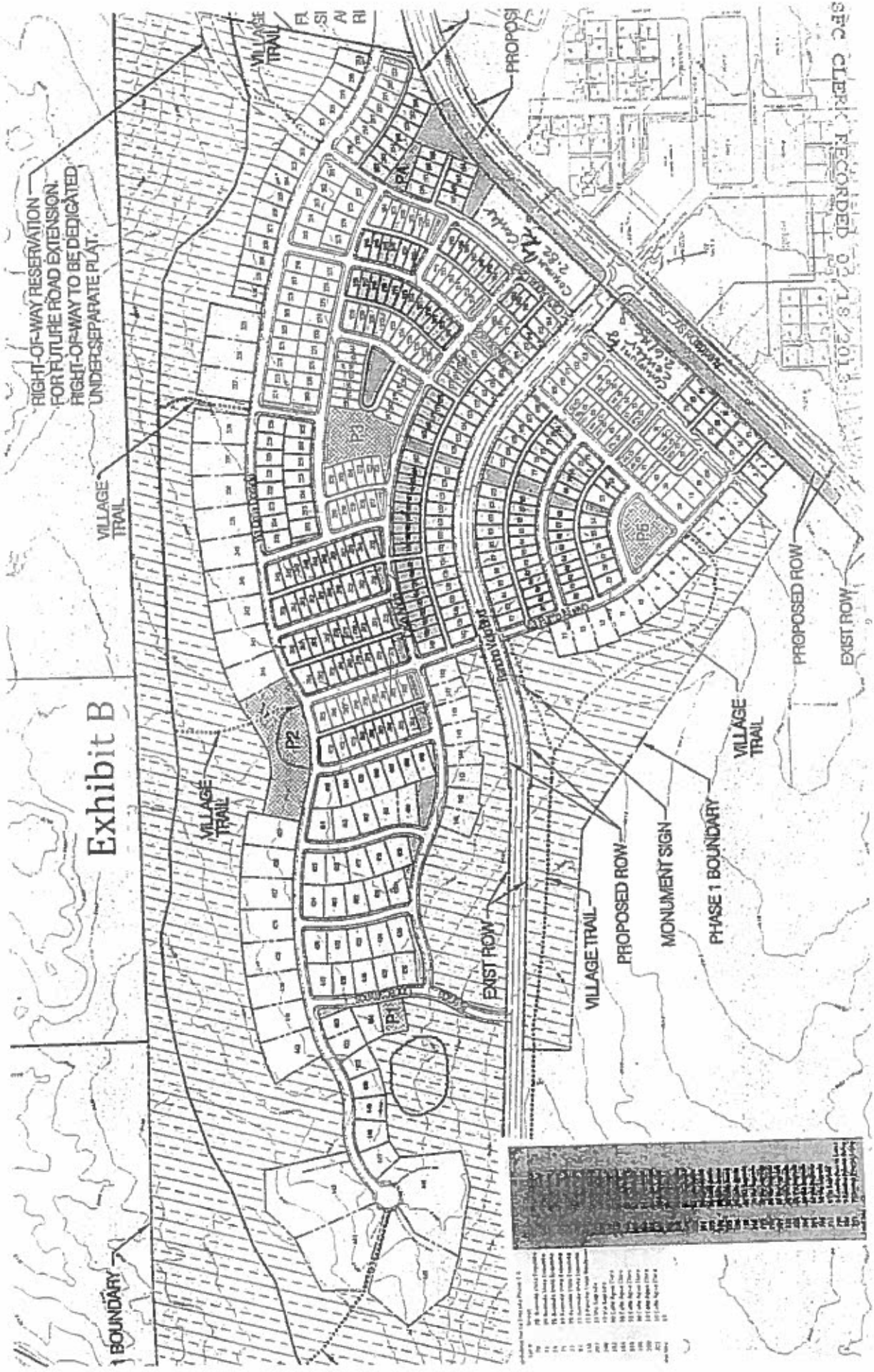
I, _____, Affordable Housing Administrator for Santa Fe County, do hereby approve/disapprove the Applicant's request to substitute Lot # ____ in La Entrada Phase 1 for Affordable Lot # _____, identified in Exhibit B as one of the required Affordable Lots. Exhibit B to the Amended and Restated Agreement for La Entrada Phase 1 is hereby modified through the execution of this document.

By: Affordable Housing Administrator

Date: _____

Exhibit B

RIGHT-OF-WAY RESERVATION
FOR FUTURE ROAD EXTENSION.
RIGHT-OF-WAY TO BE DEDICATED
UNDER SEPARATE PLAT.

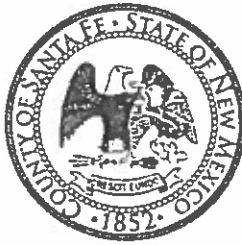


Schedule of Assessed Values	
Year	Assessed Value
2008	\$1,100,000
2009	\$1,150,000
2010	\$1,200,000
2011	\$1,250,000
2012	\$1,300,000
2013	\$1,350,000
2014	\$1,400,000
2015	\$1,450,000
2016	\$1,500,000
2017	\$1,550,000
2018	\$1,600,000
2019	\$1,650,000
2020	\$1,700,000
2021	\$1,750,000
2022	\$1,800,000
2023	\$1,850,000
2024	\$1,900,000
2025	\$1,950,000
2026	\$2,000,000
2027	\$2,050,000
2028	\$2,100,000
2029	\$2,150,000
2030	\$2,200,000
2031	\$2,250,000
2032	\$2,300,000
2033	\$2,350,000
2034	\$2,400,000
2035	\$2,450,000
2036	\$2,500,000
2037	\$2,550,000
2038	\$2,600,000
2039	\$2,650,000
2040	\$2,700,000
2041	\$2,750,000
2042	\$2,800,000
2043	\$2,850,000
2044	\$2,900,000
2045	\$2,950,000
2046	\$3,000,000
2047	\$3,050,000
2048	\$3,100,000
2049	\$3,150,000
2050	\$3,200,000
2051	\$3,250,000
2052	\$3,300,000
2053	\$3,350,000
2054	\$3,400,000
2055	\$3,450,000
2056	\$3,500,000
2057	\$3,550,000
2058	\$3,600,000
2059	\$3,650,000
2060	\$3,700,000
2061	\$3,750,000
2062	\$3,800,000
2063	\$3,850,000
2064	\$3,900,000
2065	\$3,950,000
2066	\$4,000,000
2067	\$4,050,000
2068	\$4,100,000
2069	\$4,150,000
2070	\$4,200,000
2071	\$4,250,000
2072	\$4,300,000
2073	\$4,350,000
2074	\$4,400,000
2075	\$4,450,000
2076	\$4,500,000
2077	\$4,550,000
2078	\$4,600,000
2079	\$4,650,000
2080	\$4,700,000
2081	\$4,750,000
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2084	\$4,900,000
2085	\$4,950,000
2086	\$5,000,000
2087	\$5,050,000
2088	\$5,100,000
2089	\$5,150,000
2090	\$5,200,000
2091	\$5,250,000
2092	\$5,300,000
2093	\$5,350,000
2094	\$5,400,000
2095	\$5,450,000
2096	\$5,500,000
2097	\$5,550,000
2098	\$5,600,000
2099	\$5,650,000
2100	\$5,700,000

Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *July 15, 2015*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Purchasing Manager*

VIA: *Katherine Miller, County Manager*
Jeff Trujillo, ASD Director
Ron Madrid, County Undersheriff

ITEM AND ISSUE: BCC Meeting July 28, 2015

REQUEST APPROVAL OF AMENDMENT NO. 4 TO AGREEMENT 2013-0103-SD/MS BETWEEN SANTA FE COUNTY AND THE SANTA FE ANIMAL SHELTER/HUMANE SOCIETY TO PROVIDE HUMANE ANIMAL CARE AND SHELTERING SERVICES FOR AN ADDITIONAL YEAR. (PURCHASING/BILL TAYLOR)

SUMMARY:

Before the Board of County Commissioners ("Board") for approval is the fourth and final amendment to Agreement No. 2013-0103-SD/MS ("Agreement") between the County and the Santa Fe Animal Shelter and Humane Society (Contractor or Animal Shelter) for animal impound and shelter services of animals found in the County. The Board's approval of this Agreement will extend the term from August 1, 2015, through June 30, 2016. If the Agreement is not approved, the Agreement will expire on July 31, 2015.

BACKGROUND:

The Animal Shelter was selected pursuant to a competitive request for proposals in 2012. The resulting contract was amended three times to, among other things requested by the Animal Shelter, extend the term and provide for compensation through June 30, 2015. This amendment No. 4 restates the original agreement and incorporates all the amendments made in Amendment Nos. 1 through 3. All previous amendments including Amendment No. 4 are reflected in one, single contract.

The increase in compensation with this Amendment No. 4 resulted in a contract sum that is beyond the County Manager's signature authority, and the County Sheriff and Animal Shelter did not reach mutual agreement in time for Board consideration before June 30, 2015. Consequently, the Agreement was crafted so that it could be signed initially by the County Manager for the month of

July and subsequently considered by the Board. The Agreement provides that it will expire on July 31, 2015, unless the Board approves the Agreement in July, 2015 thereby extending the term to June 30, 2016, the end of Fiscal Year 2016. The compensation due within the month of July is within the County Manager's signature authority with respect to the Agreement.

Here is a summary of the significant amendments or changes to the Agreement for Fiscal Year 2016:

- 5% increase to the monthly compensation – Beginning July 1, 2015 the County will pay 16,351.46 per month.
- Any Strays (dogs and/or cats) that are surrendered to the Animal Shelter by a private citizen (non-pet owner), the Animal Control Office of the Sheriff's Department will be notified and the number will be counted against the 120 pets/month allowance.

ACTION REQUESTED:

The Sheriff's Department and the Purchasing Division are requesting that the Board (i) approve of Amendment No. 4 to Agreement No. 2013-0101-SD/MS to extend the term through the remainder of Fiscal Year 2016 and (ii) authorize the County Manager to sign the Purchase Order for said services.

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH SANTA FE ANIMAL SHELTER AND HUMANE SOCIETY
TO PROVIDE HUMANE ANIMAL CARE AND SHELTERING SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____, 2015 by and between Santa Fe County, hereinafter referred to as the "County", and the Santa Fe Animal Shelter & Humane Society, a New Mexico non-profit organization, with a principal address of 100 Caja Del Rio Road, Santa Fe, NM 87507, hereinafter referred to as the "Contractor".

WHEREAS, pursuant to NMSA 1978, Section 13-1-126, the County has determined Contractor to be a "sole source" provider of the requested services; and

WHEREAS, the County is in need of humane animal care and sheltering services and the Contractor maintains and operates the Santa Fe Animal Shelter & Humane Society; and

WHEREAS, the County and Contractor entered into Agreement 2013-0103-SD/MS, with a three (3) year term commencing November 13, 2012, and terminating June 30, 2015. Pursuant to the Agreement, the County has the option to renew the term for one (1) year to June 30, 2016; and

WHEREAS, since November 13, 2012 the parties have amended certain provisions of the Agreement by Amendment Nos. 1, 2 and 3. The County wishes to exercise its option to renew the term for one (1) year and agrees to amend certain provisions of the Agreement that govern how the parties perform their duties; and

WHEREAS, the County requires these services and the Contractor is willing to provide the services and both parties wish to enter into this Agreement which incorporates the modifications and amendment made by Amendments 1 through 3, and further amends the term of the Agreement to be a four (4) year term.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. SCOPE OF SERVICES

The Contractor shall:

- A. Provide care and sheltering services for animals received from County Animal Control Officers ("ACOs"). The Contractor shall operate and be accessible to ACOs 24 hours per day throughout the term of this Agreement.
- B. On Saturdays and Sundays the Contractor will complete detailed intake documentation and accept from a person a stray dog or cat found within the boundary of Santa Fe County by a person who is not the owner of the dog or cat (a "County Stray"). Upon acceptance of the County Stray, the Contractor shall timely contact an ACO by telephone dispatch and the ACO will return to the Contractor's facility to complete an impound card and otherwise complete the impound of the County Stray. The Contractor's acceptance and shelter of a County Stray shall be confirmed by the ACO and each month such County Stray may be counted as provided in subparagraph D below.

- C. If an owner of an animal impounded and being held at the Contractor facility under this agreement wishes to retrieve their pet on a Saturday or Sunday, the Contractor will timely contact an ACO by telephone dispatch and the ACO will return to the Contractor's facility to document and process the release of the animal.
- D. Accept from the ACOs an average of one hundred (100) animals per month that have been impounded by an ACO for violations under County Ordinance 1991-6, or requested by an ACO to be held for other reasons consistent with County Ordinance 1991-6; provided these animals do not exhibit any symptoms of disease or conditions such as rabies or other dangerous diseases. If the number of dogs and cats received from the ACOs exceed one hundred and twenty (120) in any given month, the Contractor will submit a separate invoice to the County at the Contractor's daily impound rate as provided in Section 2 (Compensation).
- E. Visually examine all animals upon intake, provide identification bands and wellness vaccinations to healthy non-fractious animals and provide stabilization and wellness care as needed.
- F. Hold and shelter animals impounded by the ACOs for the length of time required by Santa Fe County Ordinance No. 1991-6 or as ordered by court order or "Protective Custody."
- G. Provide daily care to County-impounded animals according to accepted sheltering industry standards.
- H. Provide medical care under the direction and authority of the Contractor's licensed veterinarian. Decisions regarding all medical care, including treatment of animals rest with the Contractor's licensed veterinarian. Animals will not be euthanized within the animal holding period unless medically necessary. Decisions regarding medically necessary euthanasia of suffering animals impounded by an ACO and being held at the Contractor's facility rest with the Contractor's licensed veterinarian, in accordance with County Ordinance 1991-6, Article 3, Section 3-4. The Contractor shall notify the County prior to conducting medically necessary euthanasia of any animal received from an ACO.
- I. Contract with licensed veterinarians whose licensure is in good standing with the New Mexico Board of Veterinary Medicine. The Contractor shall ensure that the veterinarian provide and be responsible for emergency veterinarian services, during the veterinarian's regular business hours, for animals received from an ACO. The veterinarian shall be on duty approximately forty (40) hours per week. Contractor shall notify the County of any changes to the veterinarian's work schedule.
- J. Provide monthly status reports to the County that contain the following information regarding all animals received from ACOs during that month: (i) the total number of animals brought to the Contractor, (ii) the total number of animals claimed by their owners; (iii) the total number of animals adopted out by the Contractor, and (iv) the total number of County Strays received by the Contractor and processed by an ACO under 1.B above .
- K. Receive and maintain the completed County Intake Cards received from the ACOs. The Contractor shall return to the ACO Supervisor the County Intake Cards upon disposition of animals received from the ACOs.
- L. At the County's discretion, the Contractor shall collect fees from the owners for animals running at large, licensing, or other applicable fees for impounded animals on behalf of the County. Any fees collected by the Contractor, on behalf of the County, shall be specifically authorized by the County and recorded by the Contractor. The

- Contractor shall remit records of collected fees on a monthly basis to the County.
- M. Be responsible for the storage and disposal of remains of those animals received from an ACO which are euthanized by the Contractor. The Contractor shall provide and maintain a freezer on the Contractor's premises for the appropriate storage of the remains of euthanized animals.
 - N. Contractor's staff and volunteers shall conduct themselves professionally and courteously at all times.
 - O. Except for animals that an ACO has designated with specific restrictions such as Protective Custody or otherwise indicates that an animal should not be released by the Contractor or should not be euthanized, Contractor will be responsible for the disposition of all animals received from an ACO under this agreement. The reason for designations such a Protective Custody or other designation that restricts or limits the Contractor's ability to release an animal to its owner, prepare an animal for adoption, or proceed with other necessary disposition of an animal, shall be based upon court order or shall be that the designation is related to an investigation by an ACO and commencement of a legal proceedings to enforce Ordinance 1991-6, or other state law or County ordinance or regulation.
 - P. Collect Licensing and Impoundment Fees consistent with Appendix A.I (A) and (B) of County Ordinance 1991-6. Contractor will incur all costs involved in launching a licensing program and will collect and retain all Licensing and Impoundment fees up to a total of \$100,000. After Contractor nets \$100,000 in Licensing and Impoundment fees, the Licensing and Impoundment Fees collected thereafter will be split evenly between the County and Contractor. All expenses incurred by the Contractor for the licensing program shall be reasonable and used solely for the animal licensing program. All records and expenses for the animal licensing program established by the Contractor are public records and subject to audit and inspection by the County upon request.
 - Q. Animals delivered to the Contractor by an ACO and whose impoundments are indicated as Protective Custody shall be held by the Contractor for up to five (5) days. If the owner fails to reclaim the animal by the end of day five (5), the animal will be deemed abandoned and its disposition determined by the Contractor.
 - R. Sterilize healthy feral cats received from an ACO and return the feral cats to the location where they were found or to a managed cat colony.
 - S. Contractor will not accept for impoundment or boarding any animals including domestic livestock or exotic animals, from an ACO which the ACO indicates are to held as evidence in a pending legal proceeding such as a hoarding case or other criminal case.

The County shall:

- A. Upon impoundment of any animal and delivery to the Contractor complete a County Impound Card which shall indicate the date and time of impound and the location (street address, mile marker, etc.) at which the animal was impounded.
- B. Upon delivery of an impounded animal to the Contractor, indicate in writing whether the County requires the impounded animal to be held beyond the time limits stated in County Ordinance 1991-6, Article 3, Section 3-2. These impounded animals will be designated as "Do Not Release to Owner" or "Do Not Euthanize."
- C. Contact the owner of animals impounded by the ACOs. Whenever possible, the

- County shall attempt to return animals to their owner prior to impounding them at the Contractor's facility.
- D. Provide and be responsible for emergency veterinary services for animals impounded by an ACO when the Contractor's veterinarian is not on duty.
 - E. If the County selects alternate care and treatment of an animal impounded at the Contractor's facility, the County shall notify the Contractor within twenty-four (24) hours of intake and the County will assume all responsibility and liability for that animal including cost of care.
 - F. In regards to animal bite cases, upon delivery of an animal by an ACO complete and sign the Bite Case Quarantine form attached hereto as Exhibit A and the County impound card. If the owner of the animal is known and present at the time of impound, the Bite Case Quarantine form will also be completed and signed by the owner. If the owner of the animal is known and not present at the time of impound, the County will complete the Bite Case Quarantine form without the owner's signature.
 - G. Deliver to the Contractor the remains of deceased animals for disposal by the Contractor.
 - H. Provide the Contractor with instructions regarding any fees that may be collected by the Contractor on behalf of the County.
 - I. Be available to the Contractor Monday through Friday during business hours, for any matters regarding action to be taken by the Contractor including final disposition of any animal delivered by an ACO and impounded at the Contractor's facility. Be available by telephone dispatch on Saturdays and Sundays to return to the Contractor's facility to process the Contractor's acceptance of a County Stray or to process the release of an animal as provided in Section 1.B and C above.
 - J. Make all reasonable attempts before day five (5) provided for in Section 1.Q. above, to notify an owner of an animal that has been impounded and delivered to the Contractor's facility and designated as being in "Protective Custody."
 - K. Restrict the Contractor's application of the licensing program provided for in Section 1.N. above to those animals required to be vaccinated and/or licensed in accordance with Section 77-1-3 NMSA 1978 (Vaccination of dogs and cats and 77-1-15.1 (Regulation and licensure of dogs; impoundment of animals; qualified service animals exempt).
 - L. In cases where an ACO impounds an animal that it not required to be licensed and/or vaccinated under Sections 77-1-3 and 77-1-15.1 NMSA 1978, such as in boarding cases or cases involving domestic livestock or exotic animals, the County and Contractor may reach an agreement on the Contractor's boarding of such animals for a period of time that exceeds the Contractor's standard stray waiting or boarding period. The County will incur the cost and expense of such extended boarding by the Contractor and the County shall seek remuneration from any defendants or violators involved in the case as may be permitted under state law. The Contractor shall charge the County twenty dollars (\$20.00) per day for the care and shelter of these animals beyond day five as provided under Section 1.Q of this Agreement.

2. COMPENSATION AND INVOICING

- A. As compensation for the services provided for the average numbers stated in Section

1.B., the County shall pay Contractor at the conclusion of each month as follows:

- a) Payment for November 2012 through June 30, 2013 shall be \$15,184 per month;
- b) For FY 2014 beginning July 1, 2013: \$15,572.82 per month for July, August, September and October 2013. \$19,387.82 for the month of November 2013 (impoundment and licensing services). \$15,572.82 per month for impoundment fees for the months of December, January, February, March, April, May, and June 2014. And a sum not-to-exceed \$11,185.00 for licensing services for November, December, January, February, March, April, May and June 2014; payable in monthly installments based on a rate of \$7.00 for each altered animal license sold and \$15.00 for each unaltered animal license sold. With each monthly invoice Contractor shall provide proof of all licenses sold during that month for which compensation is due.
 - (i) The County's payment of the \$7.00 and \$15.00 licensing services fees as provided in b) above shall discontinue in the event the licensing fees stated in County Ordinance 1991-6 are amended or modified. If Ordinance 1991-6 is amended licensing fees or rates and payments shall be consistent with the requirements of County Ordinance 1991-6.
- c) For FY 2015 beginning July 1, 2014: \$15,572.82 per month for impoundment services for each month from July, 2014 to June 30, 2015. An amount not-to-exceed \$45,745.00 for the months of July 2014 through June 30, 2015 for licensing fees; payable by monthly payments and based on a rate of \$7.00 for each altered animal license sold and \$15.00 for each unaltered animal license sold. With each monthly invoice Contractor shall provide the number, type (altered or unaltered animal), and charge (\$7.00 or \$15.00) for each type of license sold during that month for which compensation is due.
 - (i) The County's payment of the \$7.00 and \$15.00 licensing services fees as provided in b) above shall discontinue in the event the licensing fees stated in County Ordinance 1991-6 are amended or modified. If Ordinance 1991-6 is amended licensing fees or rates and payments shall be consistent with the requirements of County Ordinance 1991-6.
- d) For FY 2016 beginning July 1, 2015; \$16,351.46 per month for impoundment services for each month from July 1, 2015 to June 30, 2016. The County's payment of the \$7.00 and \$15.00 licensing services fees shall discontinue in the event the licensing fees stated in County Ordinance 1991-6 are amended or modified. If Ordinance 1991-6 is amended licensing fees or rates and payments shall be consistent with the requirements of County Ordinance 1991-6.

B. In addition, the Contractor shall invoice the County at a rate of \$20.00 per day per dog or cat for the care and boarding of County-impounded dogs or cats that exceed 120 per month.

- C. The Contractor shall submit a written request for payment to the County whenever payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought.

The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

- D. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.

- E. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

3. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate on July 31, 2015, or, if this Agreement is approved by the Board of County Commissioners of Santa Fe County during July, 2015, on June 30, 2016, unless earlier terminated pursuant to Section 5 (Termination) or 6 (Appropriations) of this Agreement. After the initial term of three (3) years, the County the option to renew this Agreement for one (1) additional year. The County will exercise this option by submitting a written notice to the Contractor in not less than sixty (60) days prior to the expiration of the initial term of this Agreement. The compensation for services as provided in this Agreement are fixed for the first three (3) years of this Agreement and may only be modified or amended by an instrument in writing signed by the parties. In no event shall the term of this Agreement exceed four (4) years.

4. ADDITIONAL SERVICES

- A. The parties agree that all services set forth in Section 1 (Scope of Services) of this Agreement shall be completed in full, to the satisfaction of the County, in accordance with industry standards and County Ordinance 1991-6, for the amounts set forth in Section 2 of this Agreement, and for no other cost, amount, fee or expense.
- B. The County may from time to time request changes in the Scope of Services to be performed hereunder. Such changes, including any increase or decrease in the Contractor's compensation, which are mutually agreed upon by and between the

County and the Contractor, shall be incorporated in written amendments to this Agreement.

5. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than sixty (60) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable services, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work or services performed after the effective date of termination.
- C. Termination for Convenience by Contractor. The Contractor may terminate this Agreement at any time by giving the County written notice of termination. The notice shall specify the effective date of termination which shall not be less than sixty (60) days from the County's receipt of the notice and shall be of sufficient advance notice so as to give the County sufficient and reasonable time to secure the services of another contractor, or otherwise make arrangement for continued animal boarding service for animals impounded by the County. In no event shall Contractor's stated effective date of termination for convenience be less than sixty (60) days from the date of the County's receipt of Contractor's written notice.
- D. In the event the County or Contractor terminates pursuant to this Section 5 with an effective date of termination that is a date between the first and last month of a month, the compensation to be paid to the Contractor shall be the monthly compensation prorated daily to the date before the stated effective date of termination.

6. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the

County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

7. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use the County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

8. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

9. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

10. PERSONNEL

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of nor have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

11. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

12. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the County.

13. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

14. INDEMNIFICATION

- A. The Contractor shall defend, indemnify, and hold harmless the County and its Elected Officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.
- B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, counsel shall be retained to represent the County's interest.
- C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

15. RECORDS AND INSPECTIONS

- A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and

records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

16. PERMITS, FEES, AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

17. EQUAL OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement

18. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligation hereunder, the Contractor shall comply with all applicable laws, ordinances, and obligations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. The Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the federal and state district courts of New Mexico, located in Santa Fe County.

20. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

21. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

22. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

23. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2 (Compensation) of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

24. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

25. INSURANCE

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.
- C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

26. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. It is a non-profit corporation duly organized and in good standing under the laws of the State of New Mexico.
- B. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- C. This Agreement and the Contractor's obligations hereunder do not conflict with the Contractor's articles of incorporation or by-laws or any corporate resolution adopted by the Contractor.

27. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

28. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Santa Fe County Attorney
102 Grant Avenue
Santa Fe, NM 87504-0276

and,

Santa Fe County Sheriff
#35 Camino Justica
Santa Fe, NM 87508

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe Animal Shelter & Humane Society
Attention: Finance Department and Executive Director
100 Caja Del Rio Road
Santa Fe, NM 87507

29. SURVIVAL

The provisions of paragraphs 8, 11, 12, 14, 15, 19, 21, 23, 24 and 29 shall survive termination of this Agreement.

30. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

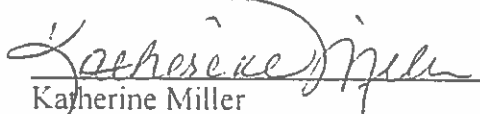
This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1 (Scope of Services) of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

31. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, amendments, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, amendments, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SANTA FE COUNTY


Katherine Miller
County Manager

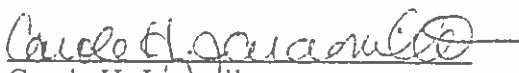
6.30.2015
Date

APPROVED AS TO FORM


Gregory S. Shaffer
Santa Fe County Attorney

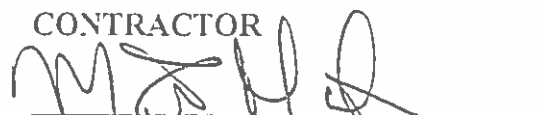
6-30-15
Date

FINANCE DEPARTMENT APPROVAL

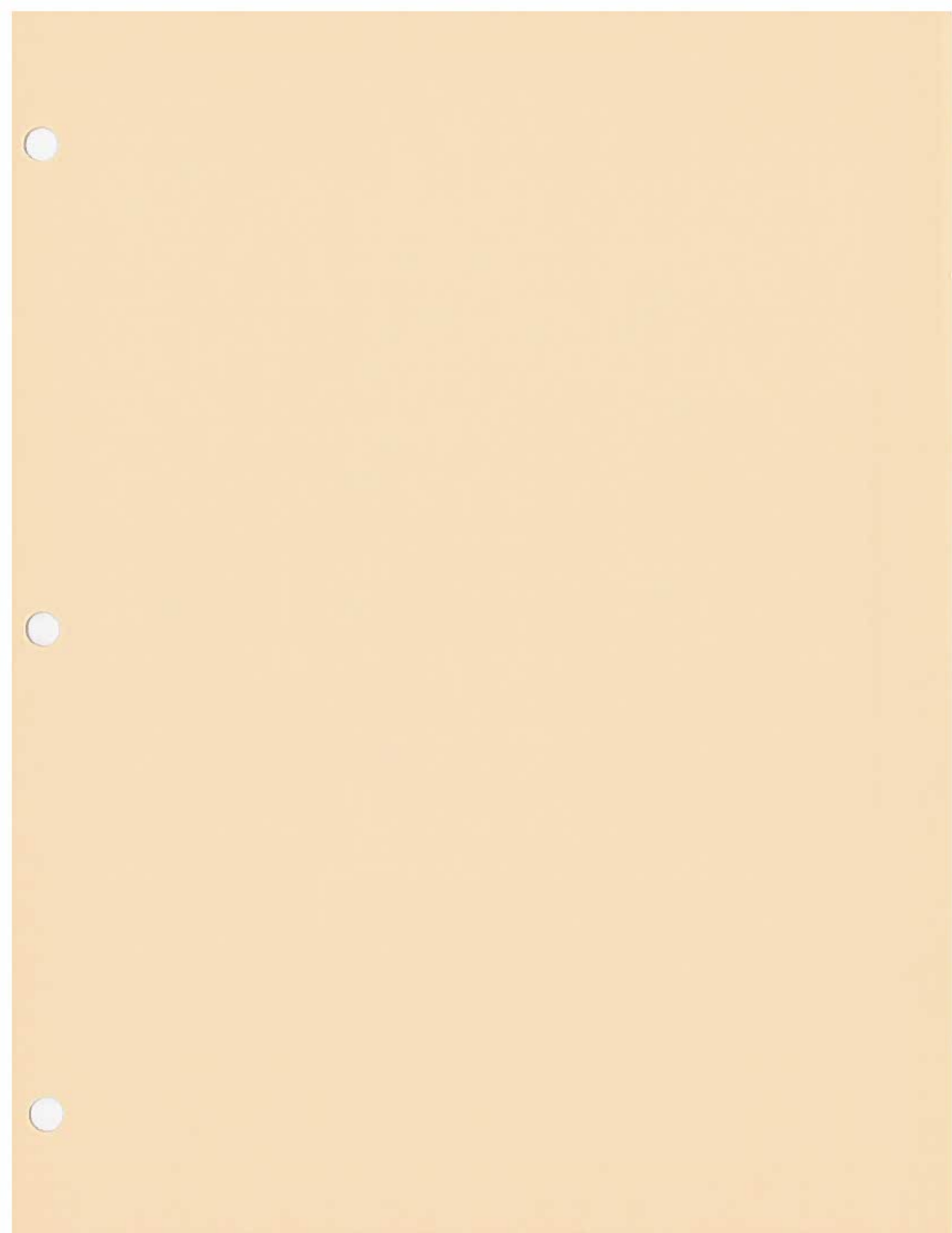

Carole H. Jaramillo
Finance Director

6/30/15
Date

CONTRACTOR


Mary Martin, Executive Director

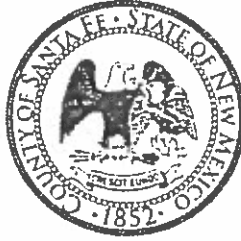
June 30, 2015
Date



Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *July 15, 2015*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Purchasing Manager* *BT*

VIA: *Katherine Miller, County Manager*
Jeff Trujillo, ASD Director
Adam Leigland, Public Works Director

ITEM AND ISSUE: BCC Meeting July 28, 2015

REQUEST APPROVAL OF CONSTRUCTION CONTRACT NO. 2015-0366-PW/MM BETWEEN SANTA FE COUNTY AND A.A.C. CONSTRUCTION, LLC IN THE AMOUNT OF \$454,733.50, EXCLUSIVE OF GRT FOR THE VISTA REDONDA ROAD IMPROVEMENTS AND REQUEST SIGNATURE AUTHORITY BE GRANTED TO THE COUNTY MANAGER TO EXECUTE THE PURCHASE ORDER. (PURCHASING/BILL TAYLOR)

SUMMARY:

The Purchasing Division and the Public Works Department are requesting County Manager signature approval on the A.A.C. Construction LLC., purchase order in the amount of \$454,733.50 exclusive of GRT for the Vista Redonda Road improvement contract No. 2015-0366-PW/MM.

BACKGROUND:

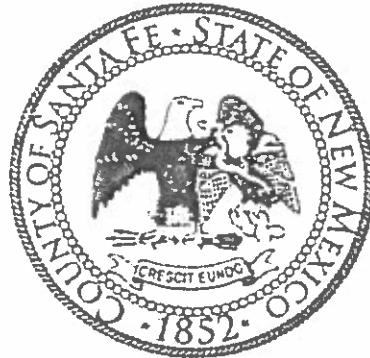
Santa Fe Engineering was contracted to provide full design services for the road improvements for the Vista Redonda Subdivision, budgeted from the 2013 Series General Obligation Bonds.

Improvements will include drainage, retaining walls, guardrail, and paving of 0.41 miles of road that involve 700 lineal feet of Vista Redonda and 1500 lineal feet of Paseo Encantado.

ACTION REQUESTED:

The Purchasing Division and the Public Works Department are requesting BCC approval of contract no. 2015-0366-PW/MM with A.A.C. Construction LLC in the amount of \$454,733.50 exclusive of GRT for the Vista Redonda Road improvements and request signature authority be granted for the County Manager to execute the purchase order.

**AGREEMENT BETWEEN SANTA FE COUNTY AND CONTRACTOR
FOR CONSTRUCTION SERVICES**



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION
2014 EDITION**

[Changes, additions, deletions and/or any modifications other than those agreed upon by the parties upon execution of this contract, without the written consent of Santa Fe County shall render this document null and void.]

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

Hereafter "County":

Katherine Miller, County Manager
Santa Fe County
PO Box 276
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200

Hereafter "Contractor":

Andrew Sisneros, Managing Member
A.A.C. Construction, LLC
18 La Luna Road
Santa Fe, New Mexico 87507
(505) 471-2510
Andrew@cnsf.net

ARCHITECT/ENGINEER

NAME: Santa Fe Engineering Consultants, LLC
ADDRESS: 1599 St. Francis Drive, Suite B.
Santa Fe, NM 87505
TELEPHONE: (505) 982-2845
E-MAIL ADDRESS: Eric@SantaFeEngineering.com

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RECITALS

WHEREAS, in accordance with Section 13-1-103 through Section 13-1-110 NMSA 1978, the County issued Invitation for Bid (IFB) No. 2015-0366-PW/MM for construction services for the Vista Redonda Subdivision;

WHEREAS, the Contractor submitted its bid, in response to IFB No. 2015-0366-PW/MM;

WHEREAS, the County is authorized to enter into a construction contract for the Project pursuant to Sections 13-1-100, NMSA 1978;

WHEREAS, the Contractor hereby represents that it is a licensed contractor of the State of New Mexico pursuant to Chapter 60, Article 13 NMSA 1978;

WHEREAS, the Owner agrees to hire the Contractor, and the Contractor agrees to provide Construction Services as required herein for the Project in accordance with the terms and conditions set forth in this Agreement; and,

WHEREAS, the County requires the services of the Contractor, and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

ARTICLE 1 THE CONTRACT DOCUMENTS

1.1 DOCUMENTS

The contract documents consist of the following:

- Agreement between County and Contractor
- General Conditions of the Construction Contract
- Conditions of the Work of the Construction Contract
- Bid Sheet
- Addenda and Modifications issued
before and after execution of this Contract

Attachment A
Attachment B

1.2 CERTIFICATES AND DOCUMENTATION

The following certificates and documentation are hereby attached as exhibits as follows:

Project Manual
Technical Specifications as listed in Plan Set
Labor and Material Payment Bond
Performance Bond
Assignment of Antitrust Claims
Certificate of Insurance

Exhibit A
Exhibit B
Exhibit C
Exhibit D
Exhibit E
Exhibit F

Notice of Award
Notice to Proceed
Change Order
Certificate of Substantial Completion

Exhibit G
Exhibit H
Exhibit I
Exhibit J

ARTICLE 2 THE WORK

2.1 THE WORK

The Contractor shall perform all the Work required by the Contract Documents for the following:

The work to be completed is located at the intersection of Vista Redonda and Paseo Encantado in Tesuque, New Mexico. The work consists of, but is not limited to widening the road, installing guardrails, retaining wall, new signs, paving and striping.

ARTICLE 3 EFFECTIVE DATE, TIME OF COMMENCEMENT, SUBSTANTIAL COMPLETION AND AMENDMENTS

3.1 EFFECTIVE DATE

The Effective Date of this Agreement is the date of signature by the County.

3.2 TIME OF COMMENCEMENT

The work to be performed under this Contract shall be commenced no later than ten (10) consecutive calendar days after the date of written Notice to Proceed issued by the County, hereto attached as Exhibit H.

3.3 SUBSTANTIAL COMPLETION

The Contractor shall achieve Substantial Completion of the entire work no later than forty (40) working days from the date of the Notice to Proceed, except as hereafter extended by valid written Change Order. A Certificate of Substantial Completion, attached hereto as Exhibit J, will be issued by the County to the Contractor, as adjusted by any Change Order, attached hereto as Exhibit I.

3.4 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

Should the Contractor neglect, refuse, or otherwise fail to complete the Work within the time specified in this Article, the Contractor agrees that Liquidated Damages in the amount of one thousand dollars (\$1,000.00) shall be assessed per each working day that expires after the date of substantial completion, as adjusted by any change order, and until issuance by the County of a

certificate of Substantial Completion in accordance with Paragraph 7 EFFECTIVE DATE AND TERM of the General Conditions.

- A. It is hereby understood and mutually agreed, by and between the Contractor and the County, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are *essential conditions* of this contract and it is further mutually understood and agreed that the work outlined in this contract shall be commenced on a date to be specified in the "Notice to Proceed."
- B. The Contractor agrees that work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the County, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- C. If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified or any proper extension thereof granted by the County, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the County the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as herein set forth, for each and every working day that the contract shall be in default after the time stipulated in the contract for completing the work.
- D. The amount is fixed and agreed upon by and between the Contractor and the County because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the County would in such event sustain, and the amount is agreed to be the amount of damages which the County would sustain and the amount shall be retained from time to time by the County from current periodical estimates.
- E. It is agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the County determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the County. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:
 1. To any preference, priority or allocation order duly issued by the County;
 2. To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the County, acts of another contractor in the performance of a contract with the County, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather;

3. To any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections above.

F. Provided further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the County shall grant a further period of time prior to the date of final settlement of the contract, notify the County in writing of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

3.5 AMENDMENTS

This Agreement may be amended by mutual agreement by both parties upon issuance of a Change Order by the County to the Contractor. Any such amendment shall be in accordance with Paragraph 10 AMENDMENTS-CHANGE ORDERS of the General Conditions. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued by the County prior to the effective date of the amendment.

ARTICLE 4 CONTRACT SUM

4.1 LUMP SUM

The County shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, an agreed upon Lump Sum of Four Hundred Fifty Four Thousand Seven Hundred Thirty Three Dollars and Fifty Cents \$454,733.50, exclusive of New Mexico gross receipts tax.

4.2 CONTRACT AMOUNT

The Contract sum is determined as follows:

Base Bid	\$ 454,733.50
Total Contract Amount	\$ 454,733.50 Exclusive of NM GRT

ARTICLE 5 PROGRESS PAYMENTS

5.1 PROGRESS PAYMENTS

Based upon an Application for Payment submitted to the County by the Contractor and Certificates for Payment issued by the County, the County shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

- A. No later than (21) working days following receipt by the County of an undisputed Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and one hundred percent (100%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the County; less such amounts as the Architect/ Engineer shall determine for all incomplete Work and unsettled claims as provided in the Contract Documents (Section 57-28-5, NMSA 1978).
- B. When making payments, the County, Contractor or subcontractor shall not retain, withhold, hold back or in any other manner not pay amounts owed for work performed. For additional information regarding retainage and the Prompt Payment Act (refer to Section 57-28-5, NMSA 1978).
- C. Contractors and subcontractors shall make prompt payment to their subcontractors and suppliers for amounts owed for work performed on the construction project within twenty-one days after receipt of payment from the County, contractor or subcontractor. If the contractor or subcontractor fails to pay its subcontractor and suppliers by first-class mail or hand delivery within twenty-one days after receipt of an undisputed request for payment, the contractor or subcontractor shall pay interest to its subcontractors and suppliers beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers (Section 57-28-1 et. seq. NMSA 1978).
- D. In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.
- E. All material and work covered by partial payments made shall thereupon become the sole property of the County, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the County to require the fulfillment of all of the terms of the contract.

- F. County's right to withhold certain amounts and make application thereof. The Contractor agrees that it will indemnify and hold the County harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnisher of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the County's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the County may, after having served written notice on the said Contractor, either pay unpaid bills, of which the County has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the County to either the Contractor or its Surety. In paying any unpaid bills of the Contractor, the County shall be deemed the agent of the Contractor, and any payment so made by the County shall be considered as a payment made under the contract by the County to the Contractor and the County shall not be liable to the Contractor for any such payments made in good faith.

ARTICLE 6 FINAL PAYMENT

6.1 FINAL PAYMENT

The entire unpaid balance of the Contract Sum, shall be paid by the County to the Contractor within thirty (30) calendar days after notification of the County by the Architect/Engineer that all incomplete and unacceptable work that was noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion has been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the Architect/Engineer. In addition, the Contractor shall provide to the County a certified statement of Release of Liens and Consent of Surety.

6.2 ACCEPTANCE OF FINAL PAYMENT CONTITUTES RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the County and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or its sureties from any obligations under this contract or the Performance and Payment Bond.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Katherine Miller, Manager
Santa Fe County

Date

REVIEWED AS TO LEGAL FORM AND SUFFICIENCY

Gregory S. Shaffer
Santa Fe County Attorney

7-15-15
Date

FINANCE DEPARTMENT APPROVAL:

Carole H. Jaramillo
Santa Fe County Finance Director

Date

CONTRACTOR:

Signature

Date

Andrew Sisneros

Print Title

NEW MEXICO LICENSE NUMBER: _____

**GENERAL CONDITIONS
TO AGREEMENT BETWEEN SANTA FE COUNTY
AND CONTRACTOR
FOR CONSTRUCTION SERVICES**

1.0 DEFINITIONS

The following terms as used in this contract are respectively defined as follows:

- 1.1 *Application for Payment* Contractor's written request for payment for completed portions of the work and, for materials delivered or stored and properly labeled for the respective project.
- 1.2 *Change Order* A written document between the County and the Contractor signed by the County and the Contractor authorizing a change in the work or an adjustment in the contract sum or the contract time. A change order may be signed by the Architect or Engineer, provided they have written authority from the County for such procedure and that a copy of such written authority is furnished to the Contractor upon request. The contract sum and the contract time may be changed only by change order. A change order may be in the form of additional compensation or time; or less compensation or time known as a Deduction (from the contract) the amount deducted from the contract sum by change order.
- 1.3 *Calendar Day* Each and every Day shown on the calendar, beginning and ending at midnight.
- 1.4 *Contract Period* The elapsed number of working days or calendar days from the specified date of commencing work to the specified date of completion, as specified in the contract.
- 1.5 *Contractor* is a person, firm or corporation with whom the contract is entered into with the County.
- 1.6 *Construction Documents* All drawings, specifications and addenda associated with a specific construction project.
- 1.7 *Construction Schedule* A schedule in form satisfactory to the County, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule.
- 1.8 *Day* The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- 1.9 *Labor and Material Payment Bond* A written form of security from a surety (bonding) company to the County, on behalf of an acceptable prime Contractor or

subcontractor, guaranteeing payment to the County in the event the Contractor fails to pay for all labor, materials, equipment, or services in accordance with the contract. (see Performance Bond and Surety Bond).

1.10 Lump Sum Agreement (See Stipulated Sum Agreement)

1.11 Lump Sum Bid A single entry amount to cover all labor, equipment, materials, services, and overhead and profit for completing the construction of a variety of unspecified items of work without the benefit of a cost breakdown.

1.12 Lump Sum Contract A written contract between the County and Contractor wherein the County agrees to pay the contractor a specified sum of money for completing a scope of work consisting of a variety of unspecified items or work.

1.13 Payment Bond A written form of security from a surety company to the County, on behalf of an acceptable prime contractor or subcontractor, guaranteeing payment to all persons providing labor, materials, equipment, or services in accordance with the contract.

1.14 Performance Bond A written form of security from a surety company to the County, on behalf of an acceptable prime contractor or subcontractor, guaranteeing the completion of the work in accordance with the terms of the contract.

1.15 Progress Payment A payment from the County to the Contractor determined by calculating the difference between the completed work and materials stored and a predetermined schedule of values or unit costs. (see Schedule of Values, Unit Costs).

1.16 Progress Schedule A pictorial or written schedule (including a graph or diagram) that shows proposed and actual start and completion dates of the various work elements.

1.17 Punch list a list of items to be completed or corrected, prepared by the Architect/Engineer, checked and augmented as required by the Contractor or Construction Manager is appended hereto as Exhibit J. Note: The failure to include any item on such list does not relieve the Contractor of the responsibility to complete all work in accordance with the contract documents.

1.18 Schedule of Values A statement furnished by the Contractor to the Architect or Engineer and the County reflecting the portions of the contract sum allotted for the various parts of the work and used as the basis for reviewing the Contractor's Applications for Payment.

1.19 Services Includes services performed, workmanship, and material furnished or utilized in the performance of services.

- 1.20 *Stipulated Sum Agreement* A written agreement in which a specific amount is set forth as the total payment for completing the contract (See Lump Sum Contract).
- 1.21 *Subcontractor* is a person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with, the Contractor.
- 1.22 *Unit Price Contract* A written contract wherein the County agrees to pay the Contractor a specified amount of money for each unit of work successfully completed as set forth in the contract.
- 1.23 *Unit Prices* A predetermined price for a measurement or quantity of work to be performed within a specific contract. The designated unit price would include all labor materials, equipment or services associated with the measurement or quantity established.
- 1.24 *Working Day* means every day except Saturday, Sunday and holidays recognized by Santa Fe County. Based on a review of weather that may adversely affect the Contractor's ability to effectively prosecute the Work, and the actual Work performed by the Contractor, the Architect or Engineer will determine (between the end of the day and noon of the next day) if the County will charge a Working Day. If the Contractor was able to effectively prosecute Work on a critical path item for six (6) or more hours on a Saturday, Sunday or County-recognized Holiday, the Architect or Engineer may charge a Working Day.
- 1.25 *Work on (at) the project* is work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any subcontractor.

2. CONTRACT AND CONTRACT DOCUMENTS

- 2.1 *Entire Agreement.* This Agreement represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this Agreement, and all such conditions, understandings, and agreements have been merged into this written Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless incorporated in this written Agreement.
- 2.2 *Relationship of Contract Documents.* The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.
- 2.3 *Conflicting Conditions.* Any provisions in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

3. PLANS, SPECIFICATIONS AND ADDENDA

- 3.1 The plans, specifications and addenda, hereinafter enumerated in Article 1 of the Agreement Between County and Contractor for Construction shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect or limit the interpretation of the provisions to which they refer.
- 3.2 Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Agreement shall be attached to this Agreement at the time of execution, and are hereby incorporated by reference as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

4. CONTRACT SECURITY – BONDS

- 4.1 Performance Bond. The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract sum as security for the faithful performance of this contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.
- 4.2 Payment Bond. The Contractor shall provide payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by state, territorial or local law, as security for the payment of all persons performing labor on the project under this contract, furnishing materials in connection with this contract and all of Contractor's requirements as specified in the contract documents. The Payment Bond shall remain in effect until one year after the date when final payment becomes due.
- 4.3 Additional or Substitute Bond. If at any time the County for justifiable cause shall be or become dissatisfied with any surety or sureties, then upon the Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the County so to do, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the County. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the County.
- 4.4 Labor and Material Bond. The Contractor shall provide to the County Labor and Material Bond in an amount equal to the required payments by the Contractor to pay specified subcontractors, laborers, and materials suppliers associated with the project.

5. TERMS AND MEANINGS

Terms used in this Agreement that are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

- 5.1 Words and Phrases. Words, phrases, and abbreviations which have well-known technical or trade meanings used in the Contract Documents shall be used according to such recognized meanings. In the event of a conflict, the more stringent meaning shall govern.
- 5.2 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 5.3 Captions and Section Headings. The captions and section headings contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope and conditions of this Agreement.
- 5.4 Interchangeable Terms. For purposes of all provisions within this Agreement and all attachments hereto, the terms "Agreement" and "Contract" shall have the same meaning and shall be interchangeable.

6. COMPLIANCE WITH APPLICABLE LAW, CHOICE OF LAW

- 6.1 This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of New Mexico and applicable ordinances of Santa Fe County.
- 6.2 In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations, including Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).
- 6.3 Minimum Wage Rates. The Contractor, all subcontractors and subsubcontractors warrants and agree to will comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act as outlined in the Bid Documents. Wage rates are not applicable to projects costing less than \$60,000.
- 6.4 This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be federal and state district courts of New Mexico.
- 6.5 Pursuant to 13-1-191, NMSA 1978, reference is hereby made to the criminal laws of New Mexico, including §30-14-1, §30-24-2, and §30-41-1 through 3 NMSA 1978, which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code, 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation.
- 6.6 New Mexico Tort Claims Act. By entering into this Agreement, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et Seq. NMSA 1978, as amended. The County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not

waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

- 6.7 Provision Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

7. EFFECTIVE DATE AND TERM

- 7.1 This Agreement shall, upon due execution by all parties, become effective in accordance with the Agreement Between County and Contractor for Construction, Article 3 - Effective Date, Time of Commencement and Substantial Completion. This Agreement shall not become effective until: (1) approved by the Santa Fe County Commissioners and/or the County Manager or their designee; and (2) signed by all parties required to sign this Agreement.
- 7.2 This Contract shall achieve Substantial Completion in accordance with the Agreement Between County and Contractor, Article 3 - Effective Date, Time of Commencement and Substantial Completion, unless earlier terminated pursuant to Section 8 (Termination) or 9, (Appropriations and Authorizations) of these General Conditions.

8. TERMINATION

- 8.1 Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- 8.2 Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

- 8.3 Right of the County to Terminate Contract In the event that any of the provisions of this contract are violated by the Contractor, or by any of its subcontractors, the County may serve written notice upon the Contractor and the Surety of its intention to terminate the contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the County shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract. Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the County may take over the work and prosecute the same to completion by contract or by force account and at the expense of the Contractor and the Contractor and its Surety shall be liable to the County for any excess cost occasioned the County thereby, and in such event the County may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

9. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Santa Fe County Board of County Commissioners and/or, if state funds are involved, the New Mexico State Legislature. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

10. AMENDMENTS – CHANGE ORDERS

Contract Documents may be amended by a Change Order, hereto attached as Exhibit I to allow for additions, deletions, and revision as specified in Article 2 "The Work" of the Agreement between Santa Fe County and the Contractor or to amend the terms and conditions by a Change Order.

11. INDEMNIFICATION

- 11.1 The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

11.2 The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent can not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.

11.3 The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

12. AGGRIEVEMENT PROCEDURE DURING CONTRACT ADMINISTRATION

12.1 Any claims, disputes, or other matters in question between the Contractor and the County, except those which have been waived by the making or acceptance of final payment as provided in Paragraph 6.2 of the Agreement Between Santa Fe County and Contractor for Construction, shall be presented in the form of a written request accompanied by supporting data to the Architect/Engineer for formal decision, with a copy to the other party. Such formal decision of the Architect/Engineer is binding upon the Contractor and the Owner unless either or both notify each other and the Architect/Engineer in writing within fifteen (15) days of their receipt of the decision that they are unwilling to abide by the Architect's/Engineer's decision, are thereby aggrieved in connection with the decision, and are separately exercising such rights as either may have under the Contract Documents or by law and regulation. If the Architect/Engineer fails to provide a written decision or a reasonable schedule to issue a written decision within ten (10) days after the County or the Contractor has presented its request, that party may consider itself aggrieved and may proceed to exercise its rights.

12.2 A settlement agreement signed by the County and the Contractor shall supersede and cancel any other dispute resolution proceedings regarding the same matter.

12.3 Unless work is stopped or payment withheld in accordance with the conditions of the Contract, or unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any dispute resolution proceedings, and the Owner shall continue to make payments to the Contractor in accordance with the Contract Documents.

13. DISPUTE RESOLUTION

13.1 Either County or Contractor may request mediation pursuant to the New Mexico Public Works Mediation Act, 13-4C-1 NMSA 1978, of any claim before such decision become final and binding. The request for mediation shall be submitted in writing to the other party. Timely submission of the request shall stay the effect of Paragraph 12.1.

13.2 County and Contractor shall participate in the mediation process in good faith. The process shall be completed within Sixty (60) days of filing of the request. The mediation shall be governed by the rules for mediation pursuant to the New Mexico Public Works Mediation

Act.

- 13.3** If the dispute is not resolved by mediation, the dispute shall be resolved through litigation in the district court. The parties agree that the exclusive forum for such litigation shall be the State of New Mexico District Court for the First Judicial District at Santa Fe, New Mexico. Contractor irrevocably consents to the jurisdiction of said Court and agrees to accept service of a summons and complaint by mail or commercial courier service in accordance with Rule 1-004(E)(3) NMRA.

14. INSURANCE

- 14.1** The Contractor shall not commence work under this contract until they have obtained all the insurance required under this paragraph and such insurance has been approved by the County, nor shall the Contractor allow any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been so obtained and approved.
- 14.2** Proof of Carriage of Insurance. The Contractor shall furnish the County with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions".
- 14.3** General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- 14.4** General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The Santa Fe County shall be a named additional insured on the policy.
- 14.5** Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance. The Contractor shall either 1) require each of its subcontractors to procure and to maintain during the life of its subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in 14.4 above.
- 14.6** Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act, 52-1-1 to 52-1-70 NMSA 1978. The Contractor shall procure and shall maintain during the life of this contract Workmen's Compensation Insurance as

required by applicable State law for all of its employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation law, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of its employees as are not otherwise protected.

14.7 Scope of Insurance and Special Hazards. The insurance require under subparagraphs 14.4 and 14.5 hereof shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this Contract.

14.8 Builder's Risk Insurance (Fire and Extended Coverage). Until the project is completed and accepted by the County, the County, or Contractor at the County's option is required to maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portion of the project for the benefit of the County, the Contractor, subcontractors as their interests may appear. The Contractor shall not include any costs for Builder's Risk Insurance (fire and extended coverage) premiums during construction unless the Contractor is required to provide such insurance; however, this provision shall not release the Contractor from its obligation to complete, according to plans and specifications, the project covered by the contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking.

14.9 Increased Limits. If, during the life of this Agreement, the New Mexico State Legislature increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

14.10 Additional insured. Santa Fe County will be listed as an additional insured on all policies, and proof of coverage must be provided before work begins. Contractor shall maintain adequate insurance in at least the maximum amounts which the County could be liable under the New Mexico Tort Claims Act. It is the sole responsibility of the Contractor to be in compliance with the law.

15. INDEPENDENT CONTRACTOR

15.1 The Contractor and the Contractor's agents and employees are independent contractors performing professional and technical services for the County and are not employees of the County. The Contractor and the Contractor's agents and employees shall not accrue leave, retirement, insurance, bonding, use of County's vehicles, or any other benefits afforded to employees of the County as a result of this Agreement.

15.2 The Contractor shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of the County.

15.3 The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the County and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive illegal payments.

16. CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

16.1 No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during its tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

16.2 No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the County who is authorized in such capacity and on behalf of the County to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

16.3 The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

17. ASSIGNMENT

17.1 The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

18. SUBCONTRACTING

- 18.1 The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.
- 18.2 Contractor shall provide to the County a listing of subcontractors within ten (10) days of the Contract award.
- 18.3 Contractor shall adhere to all provisions of the Subcontractor's Fair Practices Act 13-4-31 to 13-4-42, NMSA 1978.
- 18.4 Contractor shall provide to the County completed Non-Collusion Affidavit of Subcontractor form and Certification of Subcontractor Regarding Equal Employment Opportunity form for all subcontractors listed.
- 18.5 The Contractor shall not award any work to any subcontractor without prior written approval of the County, which approval will not be given until the Contractor submits to the County a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the County may require.
- 18.6 The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as they are for the acts and omissions of persons directly employed by them.
- 18.7 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the County may exercise over the Contractor under any provision of the contract documents.
- 18.8 Nothing contained in this contract shall create any contractual relation between any subcontractor and the County.
- 18.9 All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate written agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of County. Any contract between Contractor and a Subcontractor or Supplier shall provide that any remedy or claim for nonpayment of sums due or owing to Subcontractor or Supplier or services performed or materials provided is against Contractor and not County, subject to any remedy or rights Subcontractor or Supplier may have under the terms of the Contractor's Performance Bond and Section 13-4-19 NMSA 1978, the New Mexico Little Miller Act.

19. PERSONNEL

- 19.1 All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- 19.2 The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

20. NOTICES

- 20.1 Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the County: Santa Fe County
 Office of the County Attorney
 102 Grant Avenue
 Santa Fe, New Mexico 87501

To the Contractor: A.A.C. Construction, LLC.
 18 La Luna Road
 Santa Fe, New Mexico 87507

- 20.2 Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed to either party may be changed by written notice given by such party to the other as hereinabove provided.

21. RELEASE

The Contractor, upon final payment of the amounts due under this Agreement, releases the County, the County's officers and employees from all liabilities and obligations arising from or under this Agreement, including, without limitation, all damages, losses, costs, liability, and expenses, including, without limitation, attorney's fees and costs of litigation that the Contractor may have.

22. WAIVER

No provision of this Agreement shall be deemed to have been waived by either party unless such waiver be in writing signed by the party making the waiver and addressed to the other party; nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of either party to insist upon performance by the other party in strict accordance with the terms hereof. Further, the waiver by any party of a breach by the other party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of

the same or any other term, covenant, or condition thereof.

CONDITIONS OF THE WORK

1. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

- 1.1 The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the Contract. The additional drawings and instructions supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the Engineer/County will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Architect/ Engineer/County in accordance with the schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each schedule to be subject to change from time to time in accordance with progress of the work.

2. SHOP OR SETTING DRAWINGS

- 2.1 The Contractor shall submit promptly to the Engineer/County two (2) copies of each shop or setting drawing prepared in accordance with the schedule predetermined as aforesaid. After examination of such drawings by the Engineer/County and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Architect/ Engineer/County with two corrected copies. If requested by the Engineer/County the Contractor must furnish additional copies. Regardless of corrections made in or approval given to such drawings by the Engineer/County, the Contractor will be responsible for the accuracy of such drawings and for their conformity to the Plans and Specifications, unless the Contractor notifies the Engineer/County in writing of any deviations at the time the Contractor furnishes such drawings.

3. MATERIALS, SERVICES AND FACILITIES

3.1 It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

3.2 Any work necessary to be performed after regular working hours, on Sundays or legal holidays, shall be performed without additional expense to the County.

4. CONTRACTOR'S TITLE TO MATERIALS

- 4.1 No materials or supplies for the work shall be purchased by the Contractor or by any

subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he/she has good title to all materials and supplies used by him/her in the work, free from all liens, claims or encumbrances.

5. INSPECTION AND TESTING OF MATERIALS

- 5.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the County. The County will pay for all laboratory inspection service direct, and not as a part of the Contract.
- 5.2 Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

6. "OR EQUAL" CLAUSE

- 6.1 Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment or other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of the Engineer/County, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer/County's written approval.

7. PATENTS

- 7.1 The Contractor shall hold and save the County and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the County, unless otherwise specifically stipulated in the Contract Documents.
- 7.2 License and/or Royalty Fees for the use of a process which is authorized by the County of the project must be reasonable, and paid to the holder of the patent, or its authorized licensee, direct by the County and not by or through the Contractor.
- 7.3 If the Contractor uses any design, device or materials covered by letters, patent or copyright, the Contractor shall provide for such use by suitable agreement with the County of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, the Contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or its Sureties shall indemnify and save harmless the County of the project from any and all claims for infringement by reason of the use of such patented or

copyrighted design, device or materials, or any trademark or copyright in connection with work agreed to be performed under this Contract, and shall indemnify the County for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after, completion of the work.

8. SURVEYS, PERMITS AND REGULATIONS

- 8.1 Unless otherwise expressly provided for in the Specifications, the County will furnish to the Contractor all surveys necessary for the execution of the work.
- 8.2 Unless otherwise expressly provided for in the Specifications, the Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of this Contract.
- 8.3 The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

9. CONTRACTOR'S OBLIGATIONS

- 9.1 The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified. The Contractor will perform the Work in accordance with the provisions of this Contract and said specifications and in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Engineer/County as given from time to time during the progress of the work. The Contractor shall furnish, erect, maintain, and remove such construction plans and such temporary works as may be required.
- 9.2 The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Architect/Engineer and the County.

10. WEATHER CONDITIONS

- 10.1 In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer/County shall direct, the Contractor will, and will cause its subcontractors to protect carefully its and their work and materials against damage or injury from the weather. If, in the opinion of the Engineer/County, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of its Subcontractors so to protect its work, such materials shall be removed and replaced at the expense of the Contractor.

11. PROTECTION OF WORK AND PROPERTY-EMERGENCY

- 11.1 The Contractor shall at all times safely guard the County's property from injury or loss in connection with this Contract. The Contractor shall at all times safely guard and protect its own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such is caused directly by errors contained in the Contract or by the County, or its duly authorized representatives.
- 11.2 In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Engineer/County, in a diligent manner. The Contractor shall notify the Engineer/County immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Engineer/County for approval.
- 11.3 Where the Contractor has not taken action but has notified the Engineer/County of an emergency threatening injury to persons or to damage to the work or any adjoining property, the Contractor shall act as instructed or authorized by the Engineer/County.
- 11.4 The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 15 of these Conditions of the Work.

12. INSPECTION

- 12.1 The authorized representatives and agents of the County shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

13. REPORTS, RECORDS AND DATA

- 13.1 The Contractor shall submit to the County such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the County may request concerning work performed or to be performed under this Contract.

14. SUPERINTENDENT BY CONTRACTOR

- 14.1 At the site of the work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Architect/ Engineer/County and shall be one who can be continued in that capacity for the particular job involved unless he/she ceases to be on the Contractor's payroll.

15. CHANGES IN WORK

- 15.1 No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the County. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- A. Unit bid prices previously approved.
- B. An agreed lump sum.
- C. The actual cost of:
 - 1) Labor, including foremen;
 - 2) Materials entering permanently into the work;
 - 3) The County's or rental cost of construction equipment during the time of use on the extra work;
 - 4) Power and consumable supplies for the operation of power equipment;
 - 5) Insurance;
 - 6) Social Security and old age and unemployment contributions.
- D. To the costs for changes in work a fixed fee will be added to be agreed upon but not to exceed ten percent (10%) of the actual cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

16. EXTRAS

- 16.1** Without invalidating the contract, the County may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the County or the Architect/Engineer, acting officially for the County, and the price is stated in such order.

17. INSPECTION OF SERVICES

- 17.1** The Contractor shall provide and maintain an inspection system acceptable to the County covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the County during contract performance and for as long afterwards as the Contract requires.
- 17.2** The County has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The County shall perform inspections and tests in a manner that will not unduly delay the work.
- 17.3** If the County performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- 17.4** If any of the services do not conform with the Contract requirements, the County may require the Contractor to perform the services again in conformity with Contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the County may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the

Contract sum to reflect the reduced value of the services performed.

- 17.5 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, the County may by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the County that is directly related to the performance of such service, or terminate the Contract for default.

18. CORRECTION OF WORK

- 18.1 All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Architect/ Engineer/County who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet their approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at its own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer/County, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Engineer/County shall be equitable.

19. WARRANTY OF CONSTRUCTION

- 19.1 In addition to any other warranties in this Contract, the Contractor warrants that work performed under this Contract conforms to the Contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.
- 19.2 This warranty shall continue for a period of one (1) year from the date of final acceptance of the work. If the County takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one (1) year from the date the County takes possession.
- 19.3 The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to County-owned or controlled real or personal property, when that damage is the result of the Contractor's failure to conform to contract requirements or any defect of equipment, material, workmanship, or design furnished.
- 19.4 The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.
- 19.5 The County shall notify the Contractor, in writing, within a reasonable time after the

discovery of any failure, defect, or damage.

- 19.6 If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the County shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- 19.7 With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this Contract, the Contractor shall obtain all warranties that would be given in normal commercial practice; require all warranties to be executed, in writing, for the benefit of the County, if directed by the County; and, enforce all warranties for the benefit of the County, if directed by the County.
- 19.8 In the event the Contractor's warranty under subparagraph 19.4 of this clause has expired, the County may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.
- 19.9 Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the County nor for the repair of any damage that results from any defect in County-furnished material or design.
- 19.10 This warranty shall not limit the County's rights under the Inspection and Acceptance clause of this Contract with respect to latent defects, gross mistakes, or fraud.

20. SUBSURFACE CONDITIONS FOUND DIFFERENT

- 20.1 Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, the Contractor shall immediately give notice to the Engineer/County of such conditions before they are disturbed. The Engineer/County will thereupon promptly investigate the conditions, and if they find that they materially differ from those shown on the Plans or indicated in the Specifications, they will at once make such changes in the Plans and/or Specifications as they may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 15 above.

21. CLAIMS FOR EXTRA COST

- 21.1 No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order of the Architect/Engineer approved by the County, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the County, giving the County access to accounts relating thereto.

22. CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

22.1 Immediately after execution and delivery of the Contract, and before the first partial payment is made, the Contractor shall deliver to the County an estimated construction progress schedule in a form satisfactory to the County, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due to the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the County (a) a detailed estimate giving a complete breakdown of the Contract sum and (b) periodic itemized estimates of work done for the purpose of making partial payments thereof. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the Contract price.

22.2 Schedule

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit five (5) copies of a progress schedule covering project operations for the Contract period. This progress schedule shall be of the type generally referred to as a Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the contractor to implement the CPM shall be borne by the Contractor.

23. ASSIGNMENTS

23.1 The Contractor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the County. In case the Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this Contract.

24. MUTUAL RESPONSIBILITY OF CONTRACTORS

24.1 If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration if such other Contractor or subcontractors will so settle. If such other Contractor or subcontractor shall assert any claim against the County on account of any damage alleged to have been sustained, the County shall notify the Contractor, who shall indemnify and save harmless the County against any such claim.

25. SEPARATE CONTRACT

- 25.1** The Contractor shall coordinate its operations with those of other contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including its subcontractors, shall keep informed of the progress and the detail work of other contractors and shall notify the Architect/Engineer/County immediately of lack of progress or defective workmanship on the part of other contractors. Failure of a contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with its own work.

26. ARCHITECT/ENGINEER'S AUTHORITY

- 26.1** The Engineer/County shall give all orders and directions contemplated under this Contract and specifications, relative to the execution of the work. The Engineer/County shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Engineer/County's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the Engineer/County shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.
- 26.2** The Engineer/County shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the Contractor under this Contract and other Contractors performing work for the County shall be adjusted and determined by the Engineer/County.

27. STATED ALLOWANCES

- 27.1** It is understood that Contractor has included in its proposal for the Contract sum all allowances including "Allowed Materials" The Contractor shall purchase the "Allowed Materials" as directed by the County on the basis of the lowest and best bid of at least three competitive bids. If the actual sum for purchasing the "Allowed Materials" is more or less than the "Cash Allowance," the Contract sum shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable sections of the Contract Specifications covering this work.

28. USE OF PREMISES AND REMOVAL OF DEBRIS

- 28.1** The Contractor expressly undertakes at its own expense:

- A. to take every precaution against injuries to persons or damage to property;
- B. to store its apparatus, materials, supplies and equipment in such orderly fashion at the

site of the work as will not unduly interfere with the progress of its work or the work of any other subcontractors;

- C. to place upon the work or any part thereof only such loads as are consistent with the safety of the portion of the work;
- D. to clean up frequently all refuse, rubbish, scrap materials, and debris caused by its operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- E. before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from its operations, and to put the site in a neat, orderly condition.
- F. to effect all cutting, fitting or patching of its work required to make the same to conform to the plans and specifications and, except with the consent of the Engineer/County, not to cut or otherwise alter the work of any other Contractor.

29. QUANTITIES OF ESTIMATE

- 29.1 Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the County to complete the work contemplated by this Contract, and such increase or diminution shall in no way void this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

30. LANDS AND RIGHTS-OF-WAY

- 30.1 Prior to the start of construction, the County shall obtain all lands and rights-of-way necessary for the carrying out and completions of work to be performed under this Contract.

31. GENERAL GUARANTY

- 31.1 Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the County, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of final acceptance of the work unless a longer period is specified. The County will give notice of observed defects with reasonable promptness.

32. PROTECTION OF LIVES AND HEALTH

- 32.1 The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of its prosecution of the work. The safety provisions of

applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the County may determine to be reasonably necessary.

33. INTEREST OF MEMBER

- 33.1 No member of Santa Fe Board of County Commissioners shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

34. OTHER PROHIBITED INTERESTS

- 34.1 No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the County who is authorized in such capacity and on behalf of the County to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

35. USE AND OCCUPANCY PRIOR TO ACCEPTANCE BY COUNTY

- 35.1 The Contractor agrees to the use and/or occupancy of a portion or unit of the project before formal acceptance by the County, provided the County:
- A. Secures written consent of the Contractor except in the event, in the opinion of the Architect/ Engineer, the Contractor is chargeable with unwarranted delay in final cleanup of punch list items or other contract requirements.
 - B. Secures endorsement from the insurance carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction.
 - C. When the project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit to complete construction. Consent of the surety must also be obtained.

ATTACHMENT A

BID SHEETS

BASE BID SHEET 1 of 2
BID ITEMS FOR THE ROAD IMPROVEMENTS TO VISTA REDONDA

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
201000	Clearing & Grubbing Unit Cost Written In Words	LS	1	Unit Cost Written In Numbers	Extended Price Written In Numbers
1	<u>Two Thousand Dollars and No Cents</u> Dollars & Cents			<u>2,000.00</u> Dollars & Cents	<u>\$2,000.00</u> Dollars & Cents
203000	Unclassified Excavation Unit Cost Written In Words	CY	550	Unit Cost Written In Numbers	Extended Price Written In Numbers
2	<u>Six Dollars and Fifty Cents</u> Dollars & Cents			<u>6.50</u> Dollars & Cents	<u>\$3,575.00</u> Dollars & Cents
203100	Borrow Unit Cost Written In Words	CY	94	Unit Cost Written In Numbers	Extended Price Written In Numbers
3	<u>Eighteen Dollars and No Cents</u> Dollars & Cents			<u>18.00</u> Dollars & Cents	<u>\$1,692.00</u> Dollars & Cents
203200	Sub Excavation Unit Cost Written In Words	CY	10	Unit Cost Written In Numbers	Extended Price Written In Numbers
4	<u>Ten Dollars and Fifty Cents</u> Dollars & Cents			<u>10.50</u> Dollars & Cents	<u>\$105.00</u> Dollars & Cents
207000	Subgrade Preparation Unit Cost Written In Words	SY	2940	Unit Cost Written In Numbers	Extended Price Written In Numbers
5	<u>One Dollar and Seventy Five Cents</u> Dollars & Cents			<u>1.75</u> Dollars & Cents	<u>\$5,145.00</u> Dollars & Cents

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
303160	Basecourse 6" Unit Cost Written In Words <u>Six Dollars and Seventy Five Cents</u> Dollars & Cents	SY	2790	Unit Cost Written In Numbers <u>6.75</u> Dollars & Cents	Extended Price Written In Numbers <u>\$18,832.50</u> Dollars & Cents
6					
423270	HMA SP IV Complete 3" Unit Cost Written In Words <u>Seventeen Dollars and Thirty Two Cents</u> Dollars & Cents	SY	2210	Unit Cost Written In Numbers <u>17.32</u> Dollars & Cents	Extended Price Written In Numbers <u>\$38,277.20</u> Dollars & Cents
7					
570018	18" Culvert Pipe Unit Cost Written In Words <u>Twenty Five Dollars and No Cents</u> Dollars & Cents	LF	50	Unit Cost Written In Numbers <u>25.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$1,250.00</u> Dollars & Cents
8					
570019	18" Standard End Section Unit Cost Written In Words <u>Two Hundred Fifty Dollars and No Cents</u> Dollars & Cents	EA	4	Unit Cost Written In Numbers <u>250.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$1,000.00</u> Dollars & Cents
9					
601000	Removal Of Structures and Obstructions Unit Cost Written In Words <u>Two Thousand Five Hundred Dollars and No Cents</u> Dollars & Cents	LS	1	Unit Cost Written In Numbers <u>2,500.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$2,500.00</u> Dollars & Cents
10					

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
602000 11	Riprap Class "A" Unit Cost Written In Words <u>One Hundred Ten Dollars and No Cents</u> Dollars & Cents	CY	4	Unit Cost Written In Numbers <u>110.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$440.00</u> Dollars & Cents
603221 12	Check Dam Type II Unit Cost Written In Words <u>Twenty Five Dollars and No Cents</u> Dollars & Cents	LF	40	Unit Cost Written In Numbers <u>25.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$1,000.00</u> Dollars & Cents
603260 13	Culvert Protection Unit Cost Written In Words <u>Ten Dollars and No Cents</u> Dollars & Cents	SY	10	Unit Cost Written In Numbers <u>10.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$100.00</u> Dollars & Cents
603261 14	Mulch Socks Unit Cost Written In Words <u>One Dollar and Eighty Five Cents</u> Dollars & Cents	LF	1600	Unit Cost Written In Numbers <u>1.85</u> Dollars & Cents	Extended Price Written In Numbers <u>\$2,960.00</u> Dollars & Cents
609200 15	Header Curb Unit Cost Written In Words <u>Twenty Two Dollars and No Cents</u> Dollars & Cents	LF	20	Unit Cost Written In Numbers <u>22.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$440.00</u> Dollars & Cents

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
632000 16	Class "A" Seeding Unit Cost Written In Words <u>Three Thousand Nine Hundred Dollars and No Cents</u> Dollars & Cents	AC	0.3	Unit Cost Written In Numbers <u>3,900.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$1,170.00</u> Dollars & Cents
701000 17	Panel Signs Unit Cost Written In Words <u>Twenty One Dollars and Fifty Cents</u> Dollars & Cents	SF	10	Unit Cost Written In Numbers <u>21.50</u> Dollars & Cents	Extended Price Written In Numbers <u>\$215.00</u> Dollars & Cents
701031 18	Remove And Reset Existing Sign Unit Cost Written In Words <u>One Hundred Fifteen Dollars and No Cents</u> Dollars & Cents	EA	6	Unit Cost Written In Numbers <u>115.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$690.00</u> Dollars & Cents
701100 19	Steel/Base Post For Aluminum Panel Signs Unit Cost Written In Words <u>Ninety Dollars and No Cents</u> Dollars & Cents	EA	2	Unit Cost Written In Numbers <u>90.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$180.00</u> Dollars & Cents
703110 20	Road Delineator Type Hazard Unit Cost Written In Words <u>Forty Eight Dollars and No Cents</u> Dollars & Cents	EA	4	Unit Cost Written In Numbers <u>48.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$192.00</u> Dollars & Cents

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
704000	Retroreflectized Painted Markings (4") - Double Application			Unit Cost Written In Numbers	Extended Price Written In Numbers
21	Unit Cost Written In Words <u>No Dollars and Eighty Five Cents</u> Dollars & Cents	LF	2600	<u>0.85</u> Dollars & Cents	<u>\$2,210.00</u> Dollars & Cents
704762	Retroreflectized Preformed Patterned Pavement Stripe 12"			Unit Cost Written In Numbers	Extended Price Written In Numbers
22	Unit Cost Written In Words <u>Twenty Two Dollars and No Cents</u> Dollars & Cents	LF	50	<u>22.00</u> Dollars & Cents	<u>\$1,100.00</u> Dollars & Cents
799999	Remove And Reset Mailbox			Unit Cost Written In Numbers	Extended Price Written In Numbers
23	Unit Cost Written In Words <u>One Hundred Ten Dollars and No Cents</u> Dollars & Cents	EA	2	<u>110.00</u> Dollars & Cents	<u>\$220.00</u> Dollars & Cents
603000	Stormwater Pollution Prevention Plans & Maintenance			Unit Cost Written In Numbers	Extended Price Written In Numbers
24	Unit Cost Written In Words <u>Nine Hundred Forty Five Dollars and No Cents</u> Dollars & Cents	LS	1	<u>945.00</u> Dollars & Cents	<u>\$945.00</u> Dollars & Cents
618000	Construction Traffic Control & Management			Unit Cost Written In Numbers	Extended Price Written In Numbers
25	Unit Cost Written In Words <u>Four Thousand Five Hundred Dollars and No Cents</u> Dollars & Cents	LS	1	<u>4,500.00</u> Dollars & Cents	<u>\$4,500.00</u> Dollars & Cents

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
621000	Mobilization			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
26	<u>Seventeen Thousand Five Hundred Dollars and No Cents</u>	LS	1	<u>17,500.00</u>	<u>\$17,500.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
801000	Construction Staking			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
27	<u>Seven Thousand Two Hundred Fifty Dollars and No Cents</u>	LS	1	<u>7,250.00</u>	<u>\$7,250.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
901000	Construction Testing			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
28	<u>Five Thousand Two Hundred Fifty Dollars and No Cents</u>	LS	1	<u>5,250.00</u>	<u>\$5,250.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents

BASE BID SHEET 2 of 2
BID ITEMS FOR PASEO ENCANTADO SOUTHWEST

Bid Item No.	SHORT DESCRIPTION	UNIT	QTY	UNIT COST (\$)	Extended Price (\$)
201000	Clearing & Grubbing			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
29	<u>Two Thousand Dollars and No Cents</u>	LS	1	<u>2,000.00</u>	<u>\$2,000.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
203000	Unclassified Excavation			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
30	<u>Six Dollars and Fifty Cents</u>	CY	1310	<u>6.50</u>	<u>\$8,515.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents

203100	Borrow	CY	820	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
31	<u>Eighteen Dollars and No Cents</u> Dollars & Cents			<u>18.00</u> Dollars & Cents	<u>\$14,760.00</u> Dollars & Cents
203200	Sub Excavation	CY	10	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
32	<u>Twelve Dollars and No Cents</u> Dollars & Cents			<u>12.00</u> Dollars & Cents	<u>\$120.00</u> Dollars & Cents
207000	Subgrade Preparation	SY	4210	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
33	<u>One Dollar and Seventy Cents</u> Dollars & Cents			<u>1.70</u> Dollars & Cents	<u>\$7,157.00</u> Dollars & Cents
303160	Basecourse 6"	SY	4050	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
34	<u>Six Dollars and Seventy Five Cents</u> Dollars & Cents			<u>6.75</u> Dollars & Cents	<u>\$27,337.50</u> Dollars & Cents
423270	HMA SP-IV Complete 3"	SY	3490	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
35	<u>Seventeen Dollars and Thirty Two Cents</u> Dollars & Cents			<u>17.32</u> Dollars & Cents	<u>\$60,446.80</u> Dollars & Cents
570018	18" Culvert Pipe	LF	150	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words				
36	<u>Twenty Five Dollars and No Cents</u> Dollars & Cents			<u>25.00</u> Dollars & Cents	<u>\$3,750.00</u> Dollars & Cents

570019	18" Standard End Section Unit Cost Written In Words <u>Two Hundred Twenty Five Dollars and No Cents</u> Dollars & Cents	EA	6	Unit Cost Written In Numbers <u>225.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$1,350.00</u> Dollars & Cents
37					
570048	48" Culvert Pipe Unit Cost Written In Words <u>One Hundred Fifty Five Dollars and No Cents</u> Dollars & Cents	LF	10	Unit Cost Written In Numbers <u>155.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$1,550.00</u> Dollars & Cents
38					
570049	48" Standard End Section Unit Cost Written In Words <u>One Thousand Three Hundred Fifty Dollars and No Cents</u> Dollars & Cents	EA	4	Unit Cost Written In Numbers <u>1,350.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$5,400.00</u> Dollars & Cents
39					
601000	Removal Of Structures and Obstructions Unit Cost Written In Words <u>Two Thousand Dollars and No Cents</u> Dollars & Cents	LS	1	Unit Cost Written In Numbers <u>2,000.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$2,000.00</u> Dollars & Cents
40					
602000	Riprap Class "A" Unit Cost Written In Words <u>One Hundred Five Dollars and No Cents</u> Dollars & Cents	CY	48	Unit Cost Written In Numbers <u>105.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$5,040.00</u> Dollars & Cents
41					
602200	Gabions Unit Cost Written In Words <u>One Hundred Fifty Dollars and No Cents</u> Dollars & Cents	CY	22	Unit Cost Written In Numbers <u>150.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$3,300.00</u> Dollars & Cents
42					

603221	Check Dam Type II			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words	LF	430		
43	<u>Twenty Five Dollars and No Cents</u>			<u>25.00</u>	<u>\$10,750.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
603260	Culvert Protection			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words	SY	60		
44	<u>Ten Dollars and No Cents</u>			<u>10.00</u>	<u>\$600.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
603261	Mulch Socks			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words	LF	2100		
45	<u>One Dollar and Eighty Five Cents</u>			<u>1.85</u>	<u>\$3,885.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
606200	Weathering Metal Barrier W-Beam (31")			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words	LF	410		
46	<u>Twenty One Dollars and Fifty Cents</u>			<u>21.50</u>	<u>\$8,815.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
606006	Guardrail Type 6 End Treatment			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words	EA	1		
47	<u>Two Thousand Three Hundred Dollars and No Cents</u>			<u>2,300.00</u>	<u>\$2,300.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents
606050	End Treatment W-Beam End Anchor Type C			Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words	EA	1		
48	<u>One Thousand One Hundred Seventy Five Dollars and No Cents</u>			<u>1,175.00</u>	<u>\$1,175.00</u>
	Dollars & Cents			Dollars & Cents	Dollars & Cents

609200	Header Curb			Unit Cost Written In Numbers	Extended Price Written In Numbers
49	Unit Cost Written In Words <u>Twenty Two Dollars and No Cents</u> Dollars & Cents	LF	20	<u>22.00</u> Dollars & Cents	<u>\$440.00</u> Dollars & Cents
609418	Concrete Vertical Curb And Gutter 6" X 18"			Unit Cost Written In Numbers	Extended Price Written In Numbers
50	Unit Cost Written In Words <u>Twenty One Dollars and No Cents</u> Dollars & Cents	LF	820	<u>21.00</u> Dollars & Cents	<u>\$17,220.00</u> Dollars & Cents
632000	Class "A" Seeding			Unit Cost Written In Numbers	Extended Price Written In Numbers
51	Unit Cost Written In Words <u>Three Thousand Nine Hundred Dollars and No Cents</u> Dollars & Cents	AC	0.5	<u>3,900.00</u> Dollars & Cents	<u>\$1,950.00</u> Dollars & Cents
667301	Retaining Wall Complete In Place			Unit Cost Written In Numbers	Extended Price Written In Numbers
52	Unit Cost Written In Words <u>Thirty Dollars and No Cents</u> Dollars & Cents	SF	3108	<u>30.00</u> Dollars & Cents	<u>\$93,240.00</u> Dollars & Cents
701000	Panel Signs			Unit Cost Written In Numbers	Extended Price Written In Numbers
53	Unit Cost Written In Words <u>Twenty One Dollars and Fifty Cents</u> Dollars & Cents	SF	45	<u>21.50</u> Dollars & Cents	<u>\$967.50</u> Dollars & Cents
701031	Remove And Reset Existing Sign			Unit Cost Written In Numbers	Extended Price Written In Numbers
54	Unit Cost Written In Words <u>One Hundred Fifteen Dollars and No Cents</u> Dollars & Cents	EA	2	<u>115.00</u> Dollars & Cents	<u>\$230.00</u> Dollars & Cents

701100 55	Steel/Base Post For Aluminum Panel Signs Unit Cost Written In Words <u>Ninety Dollars and No Cents</u> Dollars & Cents	EA	10	Unit Cost Written In Numbers <u>90.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$900.00</u> Dollars & Cents
703110 56	Road Delineator Type Hazard Unit Cost Written In Words <u>Forty Eight Dollars and No Cents</u> Dollars & Cents	EA	7	Unit Cost Written In Numbers <u>48.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$336.00</u> Dollars & Cents
704000 57	Retroflectized Painted Markings (4") - Double Application Unit Cost Written In Words <u>No Dollars and Eighty Five Cents</u> Dollars & Cents	LF	5900	Unit Cost Written In Numbers <u>0.85</u> Dollars & Cents	Extended Price Written In Numbers <u>\$5,015.00</u> Dollars & Cents
704762 58	Retroflectirized Preformed Patterned Pavement Stripe 12" Unit Cost Written In Words <u>Twenty Two Dollars and No Cents</u> Dollars & Cents	LF	10	Unit Cost Written In Numbers <u>22.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$220.00</u> Dollars & Cents
799999 59	Remove And Reset Mailbox Unit Cost Written In Words <u>One Hundred Ten Dollars and No Cents</u> Dollars & Cents	EA	3	Unit Cost Written In Numbers <u>110.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$330.00</u> Dollars & Cents
603000 60	Stormwater Pollution Prevention Plans & Maintence Unit Cost Written In Words <u>Five Hundred Dollars and No Cents</u> Dollars & Cents	LS	1	Unit Cost Written In Numbers <u>500.00</u> Dollars & Cents	Extended Price Written In Numbers <u>\$500.00</u> Dollars & Cents

618000	Construction Traffic Control & Management	LS	1	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words <u>Four Thousand Five Hundred Dollars and No Cents</u> Dollars & Cents			<u>4,500.00</u> Dollars & Cents	<u>\$4,500.00</u> Dollars & Cents
61					
621000	Mobilization	LS	1	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words <u>Seventeen Thousand Five Hundred Dollars and No Cents</u> Dollars & Cents			<u>17,500.00</u> Dollars & Cents	<u>\$17,500.00</u> Dollars & Cents
62					
801000	Construction Staking	LS	1	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words <u>Thirteen Thousand Five Hundred Dollars and No Cents</u> Dollars & Cents			<u>13,500.00</u> Dollars & Cents	<u>\$13,500.00</u> Dollars & Cents
63					
901000	Construction Testing	LS	1	Unit Cost Written In Numbers	Extended Price Written In Numbers
	Unit Cost Written In Words <u>Six Thousand Eight Hundred Ninety Five Dollars and No Cents</u> Dollars & Cents			<u>6,895.00</u> Dollars & Cents	<u>\$6,895.00</u> Dollars & Cents
64					
BASE BID TOTAL WRITTEN IN NUMBERS		\$454,733.50			
BASE BID TOTAL WRITTEN IN WORDS		<u>Four Hundred Fifty Four Thousand Seven Hundred Thirty Three Dollars and Fifty Cents</u>			

ALL BID ITEMS AND BASE BID TOTAL ARE EXCLUSIVE
OF GROSS RECEIPTS TAX (GRT)

ATTACHMENT B

ADDENDA & MODIFICATIONS

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

June 26, 2015

SANTA FE COUNTY
IFB#2015-0366-PW/MM
Road Improvements for Vista Redonda

ADDENDUM #1

Dear Proponents,

This addendum is issued to reflect the following immediately. It shall be the responsibility of interested bidders to adhere to any changes or revisions to the IFB as identified in this Addendum No. 1. This documentation shall become permanent and made part of the departmental files.

ATTACHMENT: MANDATORY PRE-BID SIGN IN SHEET

Listed below are clarifications of the IFB and questions received via email concerning the above referenced IFB.

Question# 1- Are there any designated areas for staging?

Answer# 1- *No. You might want to contact the Vista Redonda HOA.*

Question# 2- Is Paseo Encantado required to remain open during the construction?

Answer# 2- *Yes. There are no other access routes.*

Question# 3- Can you provide the contact information regarding water?

Answer# 3- *Utility Contact Information is provided on Sheet 5-1 of the Plans*

Question# 4- Is the County requiring prime on top of the basecourse?

Answer# 4- *Yes, however, if the base course placement is followed by the placement of the asphalt within a short period of time without compromising the structural integrity of the base course, a prime coat will not be required.*

- Question# 5- Are the contractors allowed to touch the mailboxes?
- Answer # 5- *Yes. This has already been discussed with the US Postal Service, however we cannot prevent/disrupt the mail delivery to a mail box.*
- Question# 6- Is the County requiring new posts for the mailboxes?
- Answer # 6- *Yes.*
- Question# 7- Is the retaining wall only on one side of the road?
- Answer # 7- *There is one small segment where retaining wall is required on both sides of the road as shown on Sheet 6-5 of the Plans.*
- Question# 8- Is the fill onsite or do we need to have it imported?
- Answer# 8- *Fill has to be imported.*
- Question# 9- Are there any state roads involved?
- Answer# 9- *Yes. Road 502.*
- Question# 10- Are there any required permits?
- Answer# 10- *SFC will look into this. If a permit is required, SFC will*
- Question# 11- Is a Geotechnical report available?
- Answer# 11- *Yes, please see Appendix E in the Invitation for Bid (IFB) document.*
- Question# 12- Where can I obtain copies of the plans?
- Answer# 12- *All bidding documents including sample contract, plans and specifications are available on our website at www.santafecountynm.gov/asd/current_bid_solicitations*
- Question# 13- Are there places to turn around?

Answer# 13- *There are a few places, particularly where there are intersecting roads.*

Question# 14- Are all roads dead ends?

Answer# 14- *Yes, on all three roads within this subdivision.*

Question# 15- Are there any cul-de-sacs? If so, how big are they?

Answer# 15- *Yes, at the end of Vista Redonda and Paseo Encantado SW that are approximately 60 feet in diameter.*

Question# 16- Is this the area where they tried chemical hardening?

Answer# 16- *No.*

Question# 17- Is the traffic in the area heavy?

Answer# 17- *Only during the morning and afternoon rushes.*

Question# 18- Is there new construction in this area?

Answer# 18- *Not that SFC is aware of.*

Question# 19- Will the tie-ins require traffic control?

Answer# 19- *Yes.*

Question# 20- Do the traffic control plans need to be stamped by a PE?

Answer# 20- *If the traffic control services are being provided by a company that specialized in traffic control, ie: Southwest Safety or Highway Supply, in this case, no the TCP does not have to be stamped. However if you as the contractor are providing the TCP, then yes, it does have to be stamped by a PE.*

Question# 21- What is the estimated project start date?

Answer# 21- *Mid August, 2015.*

Question# 22- Is the contract time of 40 days for the entire project including the added alternate?

Answer# 22- *No. Just for the base bid.*

Question# 23- Can you explain the removal of structures?

Answer# 23- *Removal of structures and obstructions to include driveway culverts within construction limits, removal of surfacing at interface points (Vista Redonda @ 592, driveways), and sawcutting as outlined on Sheet 1-4 of the Plans and Section 601 of the Specifications.*

Question# 24- What page are the specifics for the End Treatment W-Beam End Anchor Type C located?

Answer# 24- *Please refer pages 10-24 on the plans.*

Please add this Addendum #1 to the original bid documents and refer to bid documents, hereto as such. This and all subsequent addenda will become part of any resulting contract documents and have effects as if original issued. All other unaffected sections will have their original interpretation and remain in full force and effect.

Responders are reminded that any questions or need for clarification must be addressed to Maricela Martinez, Senior Procurement Specialist at mcmartinez@santafecountnm.gov.

Santa Fe Engineering Consultants, LLC

SF
Civil and Traffic Engineering
Construction Management
Land Development

1599 St. Francis Drive, Suite B
Santa Fe, N.M. 87505
(505) 982-2845 Fax (505) 982-2641

**SF COUNTY VISTA REDONDA ROAD
IMPROVEMENTS IFB# 2015-0366-PW/MM**



MANDATORY PRE-BID CONFERENCE

June 18, 2015
Santa Fe County Projects & Facilities Department, 901 W. Alameda, Suite 20-C
2:00 P.M.

Please sign in

Name	Organization	Email	Phone
Hector Perez	UNIVERSAL CONSTRUCTORS INC	hector@ucim.com	884-0400
David Espinosa	HQ Const.	hconst@hqm.com	(505) 887-0447
Rob Demule	Century Club Construction MOUNTAIN STATES CONSTRUCTORS INC	robert@msconstructors.com	505-292-0108
Scott McCloy	BlueLine Const, Inc.	smcloy@bluelinem.com	505-216-7909
MANUEL ANAYA	A.A.C	ANDREW@CNSP.NET	505 930 0481
Eric Cornelius	S.F.E.C	Eric@SantaFeEngineering.com	505 982 2845
David Thompson	W.H. Heider	coddy@wheider.com	505 473 1360
David Thompson	SF Engineering	dthompson@gmail.com	505-920-6040
David Thompson	Sparkling Construction	msparkling@sparklingconstruction.net	505-321-1034
Ted Agnew	EMCO	emco@emco.com	490-0663
Gary Echevarria	EMCO	emco@emco.com	490-0695
David Espinosa	Armour Pavement	dauid@espinosa.com	505-264-4430

S F
Civil and Traffic Engineering
Construction Management
Land Development

1399 St Francis Drive, Suite D
Santa Fe, N. M. 87505
(505) 982-2845 Fax (505) 982-2641



June 18, 2015

Santa Fe County Projects & Facilities Department, 901 W. Alameda, Suite 20-C
2:00 P.M.



Please sign in

[illegible]

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

July 2, 2015

SANTA FE COUNTY
IFB#2015-0366-PW/MM
Road Improvements for Vista Redonda

ADDENDUM #2

Dear Proponents,

This addendum is issued to reflect the following immediately. It shall be the responsibility of interested bidders to adhere to any changes or revisions to the IFB as identified in this Addendum No. 2. This documentation shall become permanent and made part of the departmental files.

CORRECTION:

IFB Instruction for Bidders, page 4, item 5 should read:

***CONTRACT TIME:** The number of days for the completion of work (the contract time) is 40 working days. Where working days are defined as every day except Saturdays, Sundays, and Holidays as specified in Section 101 of the NMDOT Standard Specifications.*

Please add this Addendum #2 to the original bid documents and refer to bid documents, hereto as such. This and all subsequent addenda will become part of any resulting contract documents and have effects as if original issued. All other unaffected sections will have their original interpretation and remain in full force and effect.

Responders are reminded that any questions or need for clarification must be addressed to Maricela Martinez, Senior Procurement Specialist at mcmartinez@santafecountnm.gov.

EXHIBIT A

PROJECT MANUAL

EXHIBIT B

TECHNICAL SPECIFICATIONS AS LISTED IN PLAN SET

EXHIBIT C

LABOR AND MATERIAL PAYMENT BOND (SAMPLE)

KNOW ALL MEN BY THESE PRESENT, THAT WE _____
_____ as PRINCIPAL hereinafter called the "PRINCIPAL" and
_____ as SURETY hereinafter called the "SURETY", are held and
firmly bound unto Santa Fe County, a Political Subdivision of the State of New Mexico as OBLIGEE
hereinafter called the "COUNTY", for the use and benefit of any claimants as herein below defined, in
the amount of _____ (\$.) dollars for the payment whereof
PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors, and
assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL has a written contract dated _____, 2015, with the
COUNTY for the construction services for the Vista Redonda Subdivision in Santa Fe County, New
Mexico, which must be constructed in accordance with drawings and specifications which contract is
referenced and made a part hereof, and is hereinafter referred to as the "Contract."

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if PRINCIPAL shall
promptly make payment to all claimants as hereinafter defined, for all labor and material used or
reasonably required for use in the performance of the Contract, then this obligation shall be void;
otherwise, it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined as one having a direct contract with the PRINCIPAL or with a
subcontractor of the PRINCIPAL for labor, material, or both, used or reasonably required for
use in the performance of the Contract, labor and material being construed to include but not
be limited to that part of water, gas, power, light, heat, oil, gasoline, telephone services or
rental of equipment directly applicable to the Contract.
2. The above named PRINCIPAL and SURETY hereby jointly and severally agree with the
COUNTY that every claimant as herein defined, who has not been paid in full before the
expiration of a period of ninety (90) days after the date on which the last of such claimant's
work or labor was done or performed, or materials were furnished by such claimant,
prosecute a suit to final judgment for such sum or sums as may be justly due claimant, and
have execution thereof. The COUNTY shall not be liable for payment of any cost or
expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, or other than one having a direct contract with the PRINCIPAL,
shall have written notice in the form of an sworn statement to the COUNTY and any
one or both of the following: the PRINCIPAL or SURETY above named, within
ninety (90) days after such said claim is made or suit filed, stating with substantial
accuracy the amount claimed and the name of the party to whom the materials were
furnished, or for whom the work or labor was done or performed.
 - b. Such notice shall be served by mailing the same by registered mail or certified mail,
postage prepaid, in an envelope addressed to the COUNTY, PRINCIPAL or
SURETY, at any place where an office is regularly maintained by said COUNTY,

PRINCIPAL or SURETY for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer.

4. Any suit under this Labor and Material Bond must be instituted in accordance with the statute of limitation under Section 37-1-3 NMSA 1978.
5. No right of action shall accrue on this Bond to or for the use of any person or corporation other than subcontractors or sub-subcontractors of the said Contract between PRINCIPAL and Santa Fe County named herein.

SIGNED AND SEALED THIS _____ DAY OF _____, 2015.

CONTRACTOR – PRINCIPAL (signature)

By: _____
(Printed name and title)

NOTARY PUBLIC (seal)

My Commission expires: _____

SURETY (signature)

(Printed name and title)

NOTARY PUBLIC (seal)

My Commission expires: _____

SURETY'S Authorized New Mexico Agent

EXHIBIT D

PERFORMANCE BOND (SAMPLE)

A. KNOW ALL MEN BY THESE PRESENT, THAT WE _____, as PRINCIPAL hereinafter called the "CONTRACTOR" and _____, as SURETY hereinafter called the "SURETY", are held and firmly bound unto OBLIGEE Santa Fe County, a Political Subdivision of the State of New Mexico, hereinafter called the "COUNTY", in the sum of _____ (\$ _____) dollars for the payment whereof CONTRACTOR and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

B. WHEREAS, the CONTRACTOR has a written contract dated _____, 2015, with the COUNTY for the construction services for the Vista Redonda Subdivision in Santa Fe County, New Mexico, in accordance with drawings and specifications which contract is referenced made part hereof, and is hereinafter referred to as the "Contract."

C. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if CONTRACTOR shall promptly and faithfully perform said Contract (including any amendment thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect until the COUNTY shall by written instrument notify the SURETY that the obligation is discharged, except that the obligation shall continue for at least three (3) months following the expiration of the term of the Contract.

1. The SURETY hereby waives notice of any alteration or extension of the Contract time made by the COUNTY.
2. Whenever CONTRACTOR shall be, and is declared by the COUNTY to be in default under the Contract, the COUNTY having performed the COUNTY'S obligations thereunder, the SURETY must promptly remedy the default and shall promptly:
 - (1) Complete the Contract in accordance with its terms and conditions, or
 - (2) Obtain a bid or bids for submission to the COUNTY for completing the Contract in accordance with its terms and conditions, and upon determination by the COUNTY and SURETY of the lowest responsible bidder, arrange for a contract between such bidder and Santa Fe County, and make available as work progresses (even though there should be a default or a secession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price, but not exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price" as used in this paragraph, shall mean the total amount payable by the COUNTY to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by the COUNTY to CONTRACTOR.

D. No right of action shall accrue on this Performance Bond to or for the use of any person or corporation other than Santa Fe County named herein or the heirs, executors, administrators, or successors of Santa Fe County.

E. This Bond shall be enforceable without the need to have recourse to any judicial or arbitral proceedings.

SIGNED AND SEALED THIS _____ DAY OF _____, 2015.

CONTRACTOR – PRINCIPAL (signature)

By: _____
(Printed name and title)

NOTARY PUBLIC

(seal)

My Commission expires: _____

SURETY (signature)

(Printed name and title)

NOTARY PUBLIC

(seal)

My Commission expires: _____

SURETY'S Authorized New Mexico Agent

EXHIBIT E

ASSIGNMENT OF ANTITRUST CLAIMS

TO BE EXECUTED BY GENERAL CONTRACTORS, SUBCONTRACTORS, SUPPLIERS,
AND SUBSUBCONTRACTORS OF CONTRACTORS ON COUNTY CONTRACTS.

FIRM NAME:
ADDRESS:

PROJECT:

PHONE NO.:

PROJECT NO:

_____ agrees that any and all claims which it may have or may inure to it for overcharges resulting from antitrust violations as to goods, services, and materials purchased in connection with the above-referenced project are hereby assigned to Santa Fe County, but only to the extent that such overcharges are passed on to the County. It is agreed that the undersigned retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the County, including the right to any treble damages attributable thereto.

FIRM: _____

BY: _____
Signed by Individual empowered to obligate Suppliers,
Subcontractors or Subsubcontractors

TITLE: _____

EXHIBIT F

CERTIFICATE OF LIABILITY INSURANCE

EXHIBIT G

NOTICE OF CONTRACT AWARD

TO:

FROM: _____, Public Works Department

CONTRACT NO.

This is to inform that you that you have been awarded the Contract for:

Project Name: _____

Date of Award _____ Amount of Award _____

Contractor Information:

Firm Name: _____ License# _____

Address: _____ Phone # _____

It is anticipated that construction will take place:

Approximate Starting Date: _____ Approximate Completion Date: _____

Santa Fe County hereby accepts your offer on the solicitation No. _____ as reflected in this award document. The rights and obligations of the parties shall be subject to and governed by this document and any documents attached or incorporated by reference.

SANTA FE COUNTY

Name of Public Works Director or designee: _____
(Print Name)

Signature

EXHIBIT H

NOTICE TO PROCEED

TO:

DATE:

PROJECT:

ATTN:

PROJECT NO.

CONTRACT NO.

IFB NO.

Enclosed is your copy of the Contract, which has been approved. Please consider this letter as official NOTICE TO PROCEED on the above-referenced project.

Your firm shall commence work within ten (10) calendar days of the above date and shall achieve Substantial Completion [REDACTED] calendar days thereafter, which shall be [REDACTED], 2015, unless modified by Change Order.

It is essential that you make reference to the above-stated project number on all documents sent to the Architect/Engineer from your office. These documents shall include correspondence, change order proposals, change orders, payment request statements, and all other project-related material which you forward to the Architect/Engineer for information and processing.

Also, before you may start any Work at the site, you must (add any other requirements):

OWNER:

Santa Fe County

SFC [REDACTED] DEPARTMENT

By:

[REDACTED]
Director, SFC Department

EXHIBIT I

CHANGE ORDER

PROJECT:

CONTRACTOR
CHANGE ORDER NO:

ARCHITECT/ENGINEER

PROJECT NO:

Contractor Telephone:
Contractor e-mail:
ENGINEER'S/ARCHITECT'S PROJECT NO:

CHANGE ORDER JUSTIFICATION (Provide definitive reason for proposed change order.)

You are directed to make the following changes in this Contract: (Provide a detailed description of the Scope of the Work.)

NOT VALID UNTIL SIGNED BY BOTH THE COUNTY AND THE ARCHITECT/ENGINEER.
Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The Original Contract Sum was	
Net change by previously authorized Change Orders	\$0.00
The Contract Sum prior to this Change Order was he Contract Sum will be increased/decreased/unchanged	
by this Change Order in the amount of	\$0.00
The new contract Sum including this Change Order will be	\$0.00
The Contract Time will be increased/decreased/unchanged by <u> </u> days.	
The date of Substantial Completion as of the date of this Change Order therefore is: <u> </u>	

CHANGE ORDER SIGNATURE PAGE

REVIEWED

Santa Fe County

By: _____

Date: _____

AGREED AND RECOMMENDED

CONTRACTOR

By: _____

Date: _____

Title: _____

ARCHITECT/ENGINEER

By: _____

Date: _____

APPROVED

SANTA FE COUNTY

By: _____

Date: _____

EXHIBIT J

CERTIFICATE OF SUBSTANTIAL COMPLETION

SANTA FE COUNTY – PUBLIC WORKS

Public Works Director or designee (name): _____

CONTRACTOR: _____

Contractor Purchase Order Number: _____

ARCHITECT/ENGINEER: _____

Project Name: _____

Contract Date: _____

Project Description - Article 2 to Agreement Between Santa Fe County and Contractor (include address and project location description):

The contractor hereby certifies the Work of this project to be in complete conformance to the Contract Documents and is substantially complete, enabling the County to make use of the Work as intended.

By its signature below the Contractor further requests Architect/Engineer and County to inspect the Work and to concur in the Work's substantial completion by their signature and/or to provide in a timely manner to Contractor a listing of work items adjudged by them as remaining to be completed or corrected. Contractor agrees to complete and correct all work items (Punch List) representative of such listing within ____ days from date of receipt from Architect/Engineer.

Contractor

Signature

Print Name

Date

Accepted by Santa Fe County

Signature (Public Works Director or Designee) Print Name Date

Inspected/Concurrence Architect/Engineer

Signature Print Name Date

PUNCH LIST

A list of items (Punch List) to be completed or corrected, verified by the Architect/Engineer and County, is appended hereto. Failure to include any incomplete items on such list does not alter the responsibility of the Contractor to provide all Work in complete conformance with the Contract Documents.

The Contractor shall complete or correct the work on the punch list appended hereto by _____ (Date)

The punch list consists of _____ (indicate number of items) items.

The Work performed under this Contract has been reviewed and found to be substantially complete by the Director of Public Works who has hereby established the Date of Substantial Completion as _____ (date) which is also the date of commencement of all warranties and guarantees required by the Contract Documents. The Date of Substantial Completion of the Work or designated portion thereof is the date established by the Director of Public Works (or designee) when construction is sufficiently complete, in accordance with the Contract Documents, so the County may occupy the Work, or designated portion thereof, for the use for which it is intended.

The County accepts the Work or designated portion thereof as substantially complete and assumes full possession thereof, in accordance with the contract documents.

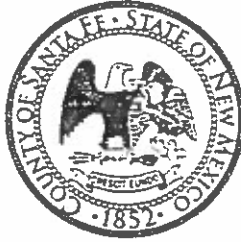
Punch List Items: (Use additional sheets if necessary)



Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *July 14, 2015*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director*

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting July 28, 2015*

**Infrastructure and Capital Improvement Plan Public Hearing and Update on ICIP
Public Outreach Meetings (Public Works/Erik Aaboe)**

SUMMARY:

This is a request to conduct the first ICIP public hearing, along with an update on the six public outreach meetings conducted to date.

BACKGROUND:

Santa Fe County annually submits an "Infrastructure and Capital Improvement Plan" (ICIP) to the New Mexico Department of Finance and Administration (DFA). The ICIP is required of all local governments in advance of the New Mexico Legislature's capital outlay process. The County's ICIP is due to DFA by September 2, 2015. On June 30th, the BCC approved the ICIP public outreach meetings, public hearings and final action schedule. Attached is a specific listing of the six public meetings held, as well as the presentation that provided a general overview of the Public Works Department and capital improvement planning and funding.

For each meeting, a CIP database report with all capital projects within the relevant Commission District was presented and discussed. Based on input from attendees at the Madrid Fire Station meeting, staff will attend a Madrid community meeting on August 3rd to further solicit input on the ICIP.

Staff was informed this year by DFA that the County's ICIP submittals in the past have had an inordinately large (greater than 200) number of projects on our ICIP list. DFA has requested that the County submit an ICIP list this year that has a more prioritized and manageable number (e.g. 40-60) of projects.

DISCUSSION:

During July, County staff conducted six public outreach meetings on the County's capital improvement planning process and to solicit public input on development of the County's ICIP. An update on those meetings is being provided at today's meeting.

This agenda item also includes a formal public hearing on the ICIP. The hearing was noticed in the July 13, 2015 Albuquerque Journal legal notices and a display ad ran in the July 17, 2015 Journal North. Another public hearing and final action by the BCC is scheduled for the Commission meeting on August 11, 2015.

ACTION REQUESTED

Conduct public hearing

However, staff intends to work with Commissioners between today and the August 11th final action date to create a prioritized subset of the County's larger, comprehensive Capital Improvement Plan project list, to submit to DFA as the 2017-2021 Infrastructure Capital Improvement Plan.

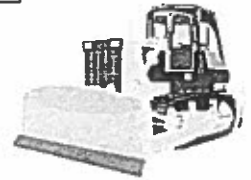
Attachments:

1. CIP/ICIP list of public outreach meetings held in July
2. CIP/ICIP presentation
3. Santa Fe County CIP database report

July 2015



You're Invited! ***Santa Fe County Public Meetings*** ***on Capital Projects***



During July, Santa Fe County is holding a series of public meetings to inform the public on its capital projects activities and to solicit public input on future capital project needs. Capital projects include: new facilities and existing facility improvements, roads, water utility infrastructure, and parks, recreational facilities and trails. This is part of a public outreach requirement to submit an "Infrastructure and Capital Improvement Plan" (ICIP) to the State of NM in advance of the capital outlay funding process during the next NM Legislative session.

- Nancy Rodriguez Community Center – Monday, July 6th 5:30-6:30 p.m.
 - 1 Prairie Dog Loop, Santa Fe
- Madrid Fire Station – Thursday, July 9th 6:00-7:30 p.m.
 - 31 Fire House Rd., Madrid
- Pojoaque Satellite Office – Monday, July 13th 6:00-7:30 p.m.
 - 5 West Gutierrez, Suite 9, Pojoaque
- Southern Region (Edgewood) Fire Station - Wed., July 15th 6:00-7:30 p.m.
 - 1 Municipal Way, Edgewood
- Eldorado Senior Center - Tuesday, July 21st 6:00-7:30 p.m.
 - 16 Avenida Torreon, Eldorado
- Hondo Fire Station #2 - Wednesday, July 22nd 6:00-7:30 p.m.
 - 645 Old Las Vegas Highway
- County Commission Hearings on the ICIP (102 Grant Ave., behind the Lensic Theater)
 - Tuesday, July 28th (changed from July 14th), First Public Hearing, at or after 5:00 p.m.
 - Tuesday, August 11th, Final Public Hearing and Adoption of ICIP Resolution, at or after 2:00 p.m.

For More Information Contact: Craig O'Hare, Public Works Department, 992-3044

cohare@santafecountynm.gov

or see the County's web site:

http://www.santafecountynm.gov/public_works/capital_projects



**Capital Improvement Projects
Community Meetings
Summer 2015**



**Santa Fe County
Public Works Department**

AGENDA

- ✕ Overview of the Public Works Department
- ✕ Capital Improvement Projects
 - + Examples
 - + Funding Sources
- ✕ Capital Projects Update
 - + 2013-15 Completed and Underway
- ✕ Identifying Future Needs – the Capital Improvement Plan
- ✕ Capital Projects Funding Request to the 2016 NM Legislature – Infrastructure Capital Improvements Plan (ICIP)

What does Public Works do?

Provide, Operate, and Maintain County Land, Facilities, and Infrastructure

- × **Roads:** Maintaining the 570 miles of existing paved and unpaved road network (grading, paving, signage, lighting, etc.), constructing new roads, snow removal, drainage and erosion control.
- × **Water and Wastewater Utility:** Operate and maintain the County's potable water utility. Operate wastewater treatment facility. Conduct County-wide water management planning and technical investigations. Water conservation assistance.
- × **Solid Waste and Recycling:** Operate refuse and recycling convenience centers throughout the County, enforce the Solid Waste Ordinance (e.g. illegal dumping), conduct public outreach and education, administer special clean-up programs and collection events

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Public Works Department - Continued

- × **Parks, Open Space and Trails:** Expand, operate and maintain existing network. Plan for new parks, open space and trail facilities. New: active/sports recreational facilities (Pojoaque Ball Fields)
- × **County Buildings:** Construct, renovate and operate all County facilities (downtown Admin. Building, County Courthouse, Adult and Youth Detention Centers, Fire Stations, Fire & Sheriff's Complex, community and senior centers, etc)
- × **Renewable Energy and Energy Efficiency:** Implement solar energy improvements at existing County facilities. \$182K from NM Legislature to solarize fire stations. Provide outreach, education and technical assistance to the commercial and residential sectors.

Solarize Santa Fe!

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County Capital Projects - Examples



Herrera Courthouse (completed Feb. 2013)

El Camino Real Park



Edgewood Equestrian Center Grand Opening - August 2013



Tesuque Fire Station Solar Project - July 2013



CAPITAL PROJECTS

County Rd. 52- Paving



Arroyo Hondo Open Space Wetlands Preservation



Santa Fe Rail Trail



Rancho Viejo Fire Station



Sources of Capital Funds

County Sources

- ✖ General Obligation Bonds (paid back with property taxes)
- ✖ 1/4-cent Capital Outlay Gross Receipts Tax
- ✖ 1/8-cent "Hold Harmless" GRT – related to loss of state revenue when GRT was removed from grocery sales. Implemented 7/1/2015.
- ✖ Assessment Districts – Fire
- ✖ Water Utility Revenues

State and Federal Sources

- + Annual NM Legislature's "Capital Outlay Bill" – linked to NM Dept. of Finance and Administration's Infrastructure Capital Improvement Plans (ICIP) that are received from local governments
- + NM Water Trust Board Grants
- + NM Environment Department Grants
- + NM Department of Transportation Grants
- + Federal Community Development Block Grants (CDBG)
- + Other Federal Grants

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Two Largest Sources of Funding for Capital Projects: Capital Outlay Gross Receipts Tax and Property Taxes

Gross Receipts Tax

- 1/4 % Capital Outlay Gross Receipts (Sales) Tax: 2.5 ¢ on a \$10 purchase.
- Generates approximately \$8 million/year for projects. (\$3M is to repay Buckman Direct Diversion debt.)
- Funding is available as collected.
- County established a 2 year planning cycle for GRT projects.
- New 1/8-cent "Hold Harmless" GRT – will generate approximately \$4 million/year for capital and maintenance projects

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General Obligation Bonds – Property Taxes

- General Obligation (GO) Bond Cycle every 4 years (2004-08 , 2008-12, 2012-16, 2016-2020, etc.)
- G.O. Bonds (loans) are paid for with revenue from property taxes
- November 2012: Voters approved all 3 “Bond Questions”
 - \$19 million for roads
 - \$10 million for water and wastewater infrastructure
 - \$6 million for open space, trails and parks
- Property tax rates have stayed about the same over time because older bonds are paid off.

• Capital Projects Update

Juan Medina Rd. Pedestrian Shoulders →



Developing the CIP: Obtaining Public Input

- Community Meetings: Commissioner Town Halls, Community Meetings (like this one!)
- Citizens Committees: Transportation Advisory Committee, Capital Improvements Advisory Committee, Water Resource Advisory Committee
- Board of County Commissioners regular meetings (2nd and last Tuesday of each month)
- Commissioners' One-on-One Feedback from Constituents
- Santa Fe County Priorities Survey (July 2010)
 - #1 Response – “Roads/ streets not kept up / are in bad shape”
 - #2 Response – “Water shortage / water supply”
 - 68% rated parks and recreation services as High or Very High priority when planning the County's budget
- Public Works Department: Web Site and direct contact with staff

Capital Needs Master List – Prioritizing Projects

- ✗ Public Works Dept. maintains a master list of capital project needs.
- ✗ Adding Needs/Projects to the Master List – may be initiated by Staff, Commissioners, Public
 - “Capital Needs Request” Form
- ✗ Currently on the Master List: 250 projects totaling over \$500 million in needs! Capital needs far exceed available funding.
- ✗ Dept. of Finance and Administration requires local governments to annually submit an “Infrastructure Capital Improvements Plan by Sept. 2nd in order to be considered for capital outlay funding in the NM Legislative Session.



Your input is important!

- ✗ These are your tax dollars. We would like to hear your comments, questions, and concerns.
- ✗ Commission Public Hearings on ICIP
 - Tuesday, July 28th at or after 5:00 p.m.
 - Tuesday, August 11th, Final Adoption, after 2:00 p.m.
- ✗ Thank you for attending!
- ✗ www.santafecounty/public_works

You may download a Capital Needs Request form from this site.

This attachment will be replaced with an export of the CIP database on Wednesday morning before the BCC meeting in order to include the most current information.

